

Supreme Court, U. S.

FILED

AUG 14 1978

MICHAEL ROZAK, JR., CLERK

IN THE
Supreme Court of the United States
OCTOBER TERM, 1978

No. **78-253**

NOLAN ESTES, ET AL,

Petitioners,

versus

**METROPOLITAN BRANCHES OF THE
DALLAS N.A.A.C.P., ET AL,**

Respondents.

**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

WARREN WHITHAM

**210 Adolphus Tower
Dallas, Texas 75202**

MARK MARTIN

**1200 One Main Place
Dallas, Texas 75250**

Counsel for Petitioners

INDEX

	Page
Opinions Below	2
Jurisdiction	2
Question Presented	2
Constitutional and Statutory Provisions In- volved	3
Statement of the Case	3
Reasons for Granting the Writ	
1. The Court Below Has Decided A Federal Question In A Way In Conflict With This Court's Decision In <i>Swann</i> <i>v. Charlotte-Mecklenburg Board of</i> <i>Education</i> , 402 U.S. 1	12
2. The Court Below Has Decided A Federal Question In A Way In Conflict With This Court's Decision In <i>Milliken v. Bradley</i> , 433 U.S. 267 (<i>Milliken II</i>)	15
3. The Importance Of The Issue And The Need For Clarification	16
Conclusion	18
Proof of Service	19
Appendix "A" — Identity and Names of All Parties	1a
Appendix "B" — Opinions, Orders and Judg- ment of the District Court	
March 10, 1976, Opinion and Order	4a
March 15, 1976, Supplemental Order	45a

ii
INDEX (Continued)

	Page
April 7, 1976, Supplemental Opinion and Order	46a
April 7, 1976, Final Order	53a
April 15, 1976, Supplemental Order	121a
April 20, 1976, Supplemental Order	126a
August 18, 1976, Supplemental Order Changing Attendance Zones of James Madison High School and Lincoln High School	127a
Appendix "C" — Opinion of the United States Court of Appeals for the Fifth Circuit	130a
Appendix "D" — Letter from Clerk of the United States Court of Appeals for the Fifth Circuit advising the Court had denied Petition for Rehearing	146a
Appendix "E" — Motion for Stay of Mandate filed May 26, 1978, in the United States Court of Appeals for the Fifth Circuit	148a
Appendix "F" — Summary Examples of Non-Student Assignment Requirements Included in the District Court's April 7, 1976, Final Order	152a

iii
CITATIONS (Continued)

	Page
<i>Cases:</i>	
<i>Green v. County School Board of New Kent County</i> , 391 U.S. 430 (1968)	13
<i>Milliken v. Bradley</i> , 433 U.S. 267 (Milliken II) (1977)	3,11,13,15,16
<i>S.E.C. v. United Benefit Life Insurance Company</i> , 387 U.S. 202 (1967)	16
<i>Swann v. Charlotte-Mecklenburg Board of Education</i> , 402 U.S. 1 (1971)	3,5,12,13,15,16,18
<i>Tasby v. Estes</i> , 444 F.2d 124 (5th Cir., 1971)	5
<i>Tasby v. Estes</i> , 517 F.2d 92 (5th Cir., 1975), cert. denied, 423 U.S. 939	5
<i>Tasby v. Estes</i> , 412 F.Supp. 1192 (N.D.Tex., 1976)	2,15
<i>Constitutional and Statutory Provisions:</i>	
28 U.S.C. Section 1254(1)	2
Equal Protection Clause of the Fourteenth Amendment	3

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1978

No.

NOLAN ESTES, ET AL,
Petitioners,

versus

METROPOLITAN BRANCHES OF THE
DALLAS N.A.A.C.P., ET AL,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Petitioners, the members of the Board of Trustees of the Dallas Independent School District and its General Superintendent (Dallas Independent School District or DISD), pray that writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Fifth Circuit entered in this proceeding on April 21, 1978. The names and identities of Petitioners and the many parties Respondent, as well as Amicus Curiae, are set forth in Appendix "A".

OPINIONS BELOW

The opinions, orders and judgment of the District Court are set forth in Appendix "B" (pages 4a-129a) and are reported in part at 412 F.Supp. 1192. The opinion of the Court of Appeals is set forth in Appendix "C" (pages 130a-146a) and is reported at 572 F.2d 1010. Denial by the Court of Appeals of Petitions for Rehearing is not reported and is set forth in Appendix "D" (pages 146a-147a). Petitioners' Motion for Stay of Mandate was filed May 26, 1978, in the Court of Appeals. As of the date of printing of this petition on August 10, 1978, said Motion for Stay of Mandate had not been acted on by the Court of Appeals.

JURISDICTION

The judgment of the Court of Appeals was entered on April 21, 1978. A timely Petition for Rehearing was denied on May 22, 1978. This petition for certiorari was filed within 90 days from that date. The jurisdiction of this Court is invoked under the provisions of 28 U.S.C. Section 1254(1).

QUESTION PRESENTED

Among the issues before the Courts below was the constitutionality of the remedy formulated by the District Court to eliminate the vestiges of a state-imposed dual school system in the large urban school system described in this petition and by the Courts below. The question presented is:

Whether as to such school systems, the elimination of all one-race schools is the controlling factor to be

considered in determining whether a remedy formulated by the District Court is consistent with the Equal Protection Clause and this Court's decisions in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, and *Milliken v. Bradley*, 433 U.S. 267 (*Milliken II*).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States provides in pertinent parts as follows:

"... nor shall any State * * * deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

The Dallas Independent School District and the federal courts have been on intimate terms in school desegregation matters since 1955 immediately following *Brown II*. The instant action is not the first but is a second and separate Dallas school desegregation case. At the time the instant action was filed there was also pending in the United States District Court for the Northern District of Texas an existing class action desegregation proceedings, in which continuing jurisdiction is exercised by the District Court and in

which the various proceedings involving desegregation of the DISD have been determined.¹

This second action was brought in the District Court against DISD on October 6, 1970, by both Blacks and persons alleging to be Chicanos asserting de jure segregation of each class and seeking the establishment of a unitary school system for each class. These original Plaintiffs (Respondent-Plaintiffs) invoked the jurisdiction of the District Court pursuant to Title 28 U.S.C. Section 1331 alleging this action arises under the Fourteenth Amendment and the amount in controversy exceeds, exclusive of interest and costs, the sum of Ten Thousand (\$10,000.00) Dollars and pursuant to Title 28 U.S.C. Sections 1343(3) and (4), alleging this to be a civil action seeking injunctive relief to end denials of equal protection of the law and alleging that this action was further filed pursuant to the provisions of 42 U.S.C. Section 1981, 1983, 1988, 2000c-8 and 2000d.

On June 3, 1971, in a decision entered as a result of an appeal from an order denying the Respondent-Plaintiffs' first motion for preliminary injunction, the Court of Appeals directed the District Court to make full written findings of fact and conclusions of law on

¹ The various proceedings in that action in part may be found at *Bell v. Rippey*, 133 F.Supp. 811 (N.D.Tex., 1955); *Brown v. Rippey*, 233 F.2d 793 (5th Cir., 1956), *cert. denied*, 352 U.S. 878; *Bell v. Rippey*, 146 F.Supp. 485 (N.D.Tex., 1956); *Borders v. Rippey*, 247 F.2d 268 (5th Cir., 1957); *Rippey v. Borders*, 250 F.2d 690 (5th Cir., 1957); *Boson v. Rippey*, 275 F.2d 850 (5th Cir., 1960); *Borders v. Rippey*, 184 F.Supp. 402 (N.D.Tex., 1960); *Boson v. Rippey*, 285 F.2d 43 (5th Cir., 1960); *Borders v. Rippey*, 188 F.Supp. 231 (N.D.Tex., 1960); *Borders v. Rippey*, 195 F.Supp. 732 (N.D.Tex., 1961); *Britton v. Folsom*, 348 F.2d 158 (5th Cir., 1965); and *Britton v. Folsom*, 350 F.2d 1022 (5th Cir., 1965).

the merits of this action in the light of principles enunciated in *Swann. Tasby v. Estes*, 444 F.2d 124 (5th Cir., 1971). The District Court did so in August, 1971. The Respondent-Plaintiffs again appealed.

On July 23, 1975, the Court of Appeals, among other things, vacated the student assignment plan formulated by the District Court and remanded with directions to formulate elementary and secondary student assignment plans which comport with the directives of the Supreme Court and the July 23, 1975, Opinion-Mandate of the Court of Appeals. *Tasby v. Estes*, 517 F.2d 92 (5th Cir., 1975), *cert. denied*, 423 U.S. 939.

On October 25, 1975, and over Petitioners' objections, the District Court allowed the Metropolitan Branches of the Dallas N.A.A.C.P. (Respondent-NAACP) to intervene.

On February 2, 1976, hearings on fashioning a student assignment plan once again commenced in the District Court. These hearings culminated in the District Court's April 7, 1976, Final Order, as supplemented, containing the remedy formulated by the District Court and here in question.

On December 11, 1976, the voters in DISD voted in favor of authorizing bonds in the amount of \$80,000,000.00 for the purpose of the construction and equipment of school buildings in DISD and the purchase of necessary sites therefor. \$30,000,000.00 of these bonds have been sold to date and committed to this purpose. (T. 5, 6, 7, II Appeal)

Both Courts below have correctly recognized the urban metropolitan nature of DISD and that DISD is not a small rural school system but is the eighth largest urban school district in the United States.

The District Court by order of July 16, 1971, directed that the Mexican-American student be considered as a separate ethnic group and as a "minority" for purposes of a desegregation plan. Hence in DISD the problem exists of formulating a tri-ethnic remedy and the phrase "Anglo" is used in lieu of "white" under such circumstances. This circumstance alone magnifies the problem of formulating a remedy in a *minority Anglo* system.

There is no actual total population census of DISD. The boundaries of the City of Dallas and DISD are not coterminous. The population of the City of Dallas is 800,000 to 900,000. The ethnic composition of the total population of DISD, as distinguished from student enrollment, approximates the ethnic composition of the population of the City of Dallas which is estimated to be 25% or 30% black, 10% to 15% Chicano and the remainder Anglo. (V.I. 279, 405, 406) This is far different from the ethnic composition of the student population.

DISD contains approximately 351 square miles within the 900 square miles of Dallas County. From DISD's furthest northernmost point to its furthest southernmost point there is a distance of approximately 35 miles viewed from the northwest to the southeastern part of the district. It is about 25 miles from what is called the southwest quadrant in

Oak Cliff just below Hulcy Junior High School to the northernmost point near the Dallas County line. (V.I. 405)

The Court of Appeals has correctly recognized that in 1971 the DISD student body was 69% Anglo and that in 1975 it was 41.1% Anglo, 44.5% Black, 13.4% Mexican-American and 1% "other." This Court is advised that as of March 11, 1978, the Anglo student body was 35.38%.

At the time of trial on February 2, 1976, DISD had lost approximately 40,000 Anglo students during the pendency of this second action. As the students become younger there is a decided drop in the numbers and percentage of Anglo students. (Deft. Exs. 13; 11, pp. 1, 2)

Petitioners estimate that in 1980 the percentage of Anglo enrollment will be 26% of the total school population as opposed to 41%, that Black enrollment will be 57% as opposed to 44.5%, and that Mexican-American enrollment will be 18% of the total student enrollment as opposed to 13.4%. (V.I. 67, 68)

In addition to being faced with the problem of fashioning a remedy for an ever increasing minority Anglo school system, the District Court also had the problem of preserving naturally integrated areas and schools which had naturally integrated due to changing housing patterns. All of the plans before the Court submitted by all parties and Amicus Curiae recognized and accepted the concept that there was no reason to disturb already desegregated neighborhood

schools and each plan proposed to leave certain areas and schools alone as those areas and schools were naturally integrated. (V.I, 104, 105; Hall's Ex. 5, pp. 14-19; V.IV, 15, 16, 19; Pl. Ex. 16, pp. 9, 41; V.III, 241-242, 259, 330, 355, 406, 410)

Further the District Court had to consider the location within the DISD of these naturally integrated areas and schools in relationship to the areas containing the remaining predominantly Anglo students and the areas containing predominantly Mexican-American or Black enrollment. The area containing the only remaining predominantly Anglo students lies generally in a strip along the north and certain eastern portions of the system. The predominantly Mexican-American or Black students reside to the south and southeast in areas distant from the predominantly Anglo students. Separating the remaining predominantly Anglo students and the predominantly Mexican-American or Black students are areas containing large parts of the naturally integrated areas and schools. (Deft. Ex. 2, 3; V.I, 77, 78, 79, 80, 81)

Respondent-Plaintiffs have recognized the problems of the District Court in fashioning the remedy in question. One of their student assignment plans submitted to the District Court states the reason for leaving one-race schools. In three separate places that plan states: (Pl. Ex. 16, pp. 34, 36, 38; V. III, 377)

"Distance from the majority white areas, capacity of schools, DISD enrollment patterns and generally good physical facilities were factors resulting in South Oak Cliff retaining

its present student assignment patterns."
(Emphasis ours)

The "South Oak Cliff" referred to is the area now referred to as East Oak Cliff in the District Court's Final Order. Thus by written proposal and testimony Respondent-Plaintiffs admit that the long distance of the East Oak Cliff Subdistrict from areas containing Anglo students is so great that the continued existence of Black one-race schools in East Oak Cliff is justified. (V.III, 378, 379); that the "enrollment patterns" in DISD, i.e., an ever expanding scholastic population in East Oak Cliff, the numbers of Black students and the numbers of Anglo students in DISD and the absence of Anglo student growth in DISD, further justify the continued existence of Black one-race schools in East Oak Cliff. (V.III, 379-381, 407, 408)

Respondent-Plaintiffs in the District Court by motions filed on April 2, 1976, and April 5, 1976, sought an award of attorneys' fees in this action under Section 718 of the Education Amendments Act of 1972 on the theory that they were the "prevailing party." On April 30, 1976, Respondent-Plaintiffs filed a brief in support of their motion for attorneys' fees which contained the following statement: (5/11/76 S.R. 1, p. 4)

"Finally, the plan adopted by the Court in its order of March 10, 1976, together with Supplemental Opinion and Orders dated April 7, 1976, and April 15, 1976 adopt and/or incorporate almost every precept proposed by plaintiffs for student assignment and non-student assignment features of the remedy."
(Emphasis ours)

The District Court agreed and awarded attorneys' fees to Respondent-Plaintiffs.

Throughout Respondent-NAACP has insisted that the existence of some one-race schools invalidates the student assignment portion of the remedy. However, Respondent-NAACP publicly admits it does not have a solution. In a newspaper interview this public admission was made by the attorney of record for the Respondent-NAACP:

"And even the NAACP admits that it is having some trouble finding a way to break up the all-black nature of the subdistrict. 'If I knew the answer, I'd give it to you,' says NAACP attorney E. Brice Cunningham. 'I admit that we have not yet come up with an alternative to some all-black schools. But we will still challenge it in court.' " Dallas Morning News, August 15, 1976, at 1, col. 2.

Respondent-NAACP demands racial balance in each school and year-by-year adjustments in such quota assignments. The NAACP plan states:

"(a) Every school should have a *racial balance* comparable to the *racial balance* in the District, which will not deviate more than Ten Percent (10%) up or down." (Emphasis ours) (NAACP Ex. 2, p. 7)

* * * *

"2. The first magnitude of desegregation and the attaining of an Unitary School System

should be to *achieve a racial balance of black and white* students in each school and then follow through with the integration of *other minorities* into the system." (Emphasis ours) (NAACP Ex. 2, p. 7)

* * * *

"5. Any set plan should have written into it automatic mechanisms for change based upon conditions which may arise in the community." (NAACP Ex. 2, p. 7)

* * * *

"13. Monitoring procedures are to be so specified that assignment adjustments will be acted upon when trends of racial changes are noted. These procedures are to be made specific with respect to degrees of change and timing of remedial actions to be taken." (NAACP Ex. 2, p. 8)

The Judge of the District Court has presided in this second case from its beginning. From its March 10, 1976, Opinion and Order it is obvious that the District Court has recognized and considered all the many complex factors involved in fashioning a desegregation remedy for DISD. Over the strenuous objections of DISD, the District Court anticipated the subsequent June 27, 1977, decision of the Supreme Court in *Milliken II* and ordered comprehensive non-student assignment provisions in the remedy. As used, non-student assignment provisions involve judicial remedies in desegregation proceedings going beyond student assignment plans and pertaining to (a) the

operation and management of the business and affairs of DISD, and (b) the education, curriculum and program aspects of DISD.² Summary examples of the non-student assignment requirements included in the District Court's remedy are set out in Appendix "D".

The Court of Appeals appears to recognize the careful study and consideration that the District Court had given the case and the many complex factors involved in fashioning the remedy. Nevertheless, the Court of Appeals considered the number of one-race schools as controlling and remanded the case to the District Court for the formulation of a new student assignment plan and for findings to justify the maintenance of any one-race schools that may be a part of that plan.

REASONS FOR GRANTING THE WRIT

1. The Court Below Has Decided A Federal Question In A Way In Conflict With This Court's Decision In *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1.

Among the issues before the Courts below was the constitutionality of the remedy formulated by the District Court to eliminate the vestiges of a state-imposed dual school system in a large urban school system and

² Nothing contained in this petition is to be construed as a waiver by DISD of its right on remand to object to the introduction of all evidence and to all parts of any plan or proposal as might pertain to non-student assignment matters and to object to the inclusion of non-student assignment provisions in any remedial order and DISD specifically reserves its right to so object.

in particular such a school system that is now a *minority Anglo* system with an ever decreasing percentage of Anglo students that requires a tri-ethnic remedy and that has been the object of ongoing litigation to formulate a remedy since *Brown II*. It is obvious from the directions given the District Court on remand that the Court of Appeals considers the number of one-race schools to be the controlling criteria for determining the appropriateness of a remedy for such school systems. This is not what this Court said concerning one-race schools in *Swann*. This is not what this Court in effect construed *Swann* to mean in *Milliken II*.

This one-race school criteria seized on by the Court of Appeals is an example of how *Green v. New Kent County*³ thinking can bring lower courts to an erroneous interpretation of *Swann* in cases involving these large urban school systems. In the instant case we are dealing with a system of some 800,000 to 900,000 persons, operating some 183 school buildings with approximately 140,000 students of whom 41.1% were Anglo, 44.5% were Black and 13.4% were Mexican-American. In *Green* the school system operated only two schools in a rural county of some 4,500 population. One was a white combined elementary and high school and one was a Negro combined elementary and high school. The school system served approximately 1,300 pupils, 740 of whom were Negro and 550 of whom were white. Facts and conditions are not the same. It is one thing to think in terms of no one-race schools in New Kent County, Virginia, with only two schools in that entire rural system, but to focus on such an overly simplistic approach in considering a

³ *Green v. County School Board of New Kent County*, 391 U.S. 430 (1968)

remedy for this large urban system has brought the Court below to an erroneous construction of *Swann* and to a decision in conflict with *Swann* when read in its entirety.

A national educational crisis exists in such large urban school systems because some federal courts refuse to come to grips with the fact that *Swann* must be interpreted in light of the urban condition as it exists in such school systems. The District Court was one federal court that did recognize that *Swann* must be interpreted in light of the urban condition in such school systems. The District Court's March 10, 1976, Opinion and Order well states the anguish and agony that district courts must go through in formulating remedies in such school systems. In the District Court's language in part:

"In this complex and ever-changing area of the law, it is difficult if not impossible to discover hard and fast rules for the Court to follow."

* * * *

"... school districts are like fingerprints — each one is unique. Although the goal of a unitary, non-racial system is a constant, the method or plan for achieving that goal must be tailored to fit the particular school district involved. A plan that is successful in a district having a small student population or occupying a small area geographically, a rural district, a county-wide district, or a majority Anglo school district, will not necessarily be

successful in a large urban district such as the DISD." (Emphasis ours) 412 F.Supp. at 1195

Granted that the judicial goal must be the development of a decree that promises realistically to work and promises realistically to work now, it nevertheless defies all logic and common sense not to allow a district court to choose a plan that takes into account the urban condition in such school systems. Otherwise the judicial goal of a plan that promises realistically to work now in such school systems is reduced to a shambles.

The Court of Appeals has reached a decision in conflict with *Swann* and this Court is urged here to resolve the conflict in view of the difficulty that the nation's lower courts are having in finding a satisfactory solution to school desegregation matters in large urban school systems.

2. The Court Below Has Decided A Federal Question In A Way In Conflict With This Court's Decision in *Milliken v. Bradley*, 433 U.S. 267 (*Milliken II*).

The decision below does not refer to this Court's decision in *Milliken II*. Thus the decision below in effect interprets *Swann* to mean that the non-student assignment provisions included by the District Court in the remedial order in question, including remedial educational programs, are not to be considered as desegregation tools or techniques under *Swann*. The Court below has made a too limited reading of *Swann* in the light of this Court's decision in *Milliken II*. Con-

trary to *Milliken II*, the Court below has decided that certain remedial educational programs may not be considered as desegregation tools or techniques under *Swann*.

3. The Importance Of The Issue And The Need For Clarification.

A national educational crisis exists in urban areas and will continue unabated unless and until this Court addresses the matter of desegregation remedies in large urban school systems as described here. The issues here involved are especially important to such school systems and to their millions of school patrons throughout the nation. Cf. *S.E.C. v. United Benefit Life Insurance Company*, 387 U.S. 202, 207, where certiorari was granted because of the importance of the issue and the need for clarification.

If integrated school systems in large urban metropolitan centers are the true goal of groups such as the Respondent-Plaintiffs and Respondent-NAACP, then that goal becomes an impossibility when public education is required to exist under conditions that do not appeal to many school patrons. The constant and unrelenting uncertainty and pressure of never ending school desegregation litigation is a condition that does not appeal to many school patrons. When conditions exist that do not appeal to school patrons, they seek more satisfactory conditions elsewhere; some in the suburbs, some in private or church-related schools. The search for more satisfactory conditions elsewhere is not always related to a racial bias but to a family's sense of frustration with

conditions that decrease the total educational opportunity for one's child. One condition that decreases the total educational opportunity for one's child is constant desegregation litigation over the remedy and the resulting prospect of ever expanding busing in a large metropolitan area. Uncertainty destroys parents' patience and confidence. It is not just Anglos who become dissatisfied with these adverse conditions in urban school districts. Black families and Mexican-American families value education also; and they will leave as they can, just as Anglos leave as they can.

This case presents the Court the opportunity to address these matters and to make clear to the lower courts that *Swann* is to be interpreted in light of the facts of the urban condition as exist in school systems such as Dallas. If, in the words of Respondent-NAACP's counsel, the Respondent-NAACP has "... not yet come up with an alternative to some all-black schools," then the Court of Appeals should not read *Swann* to require the District Court to be wiser than the Respondent-NAACP.

Unless the District Court's realistic approach to such a school system is affirmed by this Court, then desegregation litigation involving such school systems will go on and on over the years and will end only at that point when these school systems become virtually all-black or virtually all-black and Mexican-American. Unitary these school systems may then be, but virtually all-black or all-black and Mexican-American they will be also.

Lower court interpretations of *Swann*, as in the Court below, create such dilemmas and uncertainties with respect to school systems such as Dallas that nothing is resolved. Such lower Court readings of *Swann* create such unfortunate social and economic circumstances in metropolitan cities that the results have become a national educational tragedy. All that now occurs under *Swann* with respect to school systems such as Dallas is constant district court hearings, appeals and remands. The District Court had a solution for a national problem. The Court of Appeals rejected this solution. Further word from this Court is needed.

CONCLUSION

For the foregoing reasons, this Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

Warren Whitham
210 Adolphus Tower
Dallas, Texas 75202

Mark Martin
1200 One Main Place
Dallas, Texas 75250

Attorneys for Petitioners

Dated: August 11, 1978

PROOF OF SERVICE

We, Warren Whitham and Mark Martin, Attorneys for Petitioners herein, and members of the Bar of the Supreme Court of the United States, hereby certify that on the 11th day of August, 1978, we served three copies of the foregoing Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit upon the following Counsel for Respondents:

Mr. Edward B. Cloutman, III
8204 Elmbrook Drive, Suite 200
P. O. Box 47972
Dallas, Texas 75247

Ms. Vilma S. Martinez
Mexican-American Legal Defense
and Educational Fund
28 Geary Street
San Francisco, California 94108

Mr. Nathaniel R. Jones
1790 Broadway, 10th Floor
New York, New York 10019

Mr. Lee Holt, City Attorney
New City Hall
Dallas, Texas 75201

Mr. John Bryant
8035 East R. L. Thornton
Dallas, Texas 75228

Mr. James G. Vetter, Jr.
555 Griffin Square Building
Suite 920
Dallas, Texas 75202

Mr. Thomas E. Ashton, III
Dallas Legal Services
Foundation, Inc.
912 Commerce Street, Room 202
Dallas, Texas 75202

Mr. E. Brice Cunningham
2606 Forest Avenue, Suite 202
Dallas, Texas 75215

Mr. Robert H. Mow, Jr.
Mr. Robert L. Blumenthal
3000 One Main Place
Dallas, Texas 75250

Mr. James A. Donohoe
1700 Republic National Bank
Building
Dallas, Texas 75201

Mr. Martin Frost
777 South R. L. Thornton
Freeway, Suite 120
Dallas, Texas 75203

and to the following Respondent pro se:

Mr. James T. Maxwell
4440 Sigma Road, Suite 112
Dallas, Texas 75240

and to the following Counsel for Amicus Curiae:

Mr. H. Ron White
1907 Elm Street, Suite 2100
Dallas, Texas 75201

by mailing same to such Counsel and Respondent pro se at their respective addresses and depositing the same in a United States mail box in an envelope properly addressed to such addresses with first class postage prepaid.

We further certify that all parties required to be served have been served.

Warren Whitham

Mark Martin

Attorneys for Petitioners

APPENDIX "A"

IDENTITY AND NAMES OF ALL PARTIES

Petitioners are the members of the Board of Trustees of the Dallas Independent School District and its General Superintendent. At the time of filing this Petition Bill C. Hunter, Sarah Haskins, Robert Medrano, Kathlyn Gilliam, Bradford N. Lapsley, Jill Foster, Harryette Ehrhardt, Robert L. Price and Gerald M. Stanglin are the Trustees of the Dallas Independent School District and Nolan Estes is its General Superintendent. Petitioners were Defendants in the District Court and Appellees and Cross-Appellants in the Court of Appeals.

The Respondent-Plaintiffs were the original Plaintiffs in the District Court and Appellants and Cross-Appellees in the Court of Appeals. The Respondent-Plaintiffs are Eddie Mitchell Tasby and Philip Wayne Tasby, by their parent and next friend, Sam Tasby; Evelyn Denise Lafayette and Darline Lafayette, by their parent and next friend, Ludie Ann Cobbin; John L. Morgan, Leon M. Morgan, Emanuel Morgan and Jacqueline Morgan, by their parent and next friend, Mary Jane Morgan; Jacqueline Denise Yarborough, Katherine Yvette Yarborough and Willie Jackson, by their parent and next friend, Bettye Jackson; Nelba Ann Crouch, Allen LaMeche and Danny O'Keefe, by Thelma Lee Crouch; Nettie Marie Cates, by her parent and next friend, Bobbie Lean Cobbin; Tony Jefferson, Beulah Jefferson, Arthur Jefferson, Yolanda Jefferson and Jacqueline Jefferson, by their parent and next friend, Ruth Jefferson; Ora Clara Woods and James

Edward Woods, by their parent and next friend, Helen Woods; Angela Medrano and Yolanda Medrano, by their parent and next friend, Richard Medrano; and the alleged class or classes they seek to represent in this action.

The Respondent-Intervenors are various parties who at various times have been permitted to intervene in these proceedings. The Respondent-Intervenors are:

1. Donald E. Curry, Gerald A. Van Winkle, Joe M. Gresham, Edmund S. Rouget and Robert A. Overton, Individually and as next friends for their children.

2. James T. Maxwell.

3. Donald Abercrombie, his wife, Helen Abercrombie, and their children, Donna and Donald; C. S. Ludwick, his wife, Ann Ludwick, and their children, Connie, Mark and Scott; Jerry Hamilton, his wife, Martha Hamilton, and their children, Pamela, Jeri and Patricia; Wayne Dickenson, his wife, Betty Dickenson, and their children, Delisa and Drew; Anthony Bascone, his wife, Rebecca Bascone, and their children, Kathy, Karen and Amy; R. D. Morgan, his wife, Janice Morgan, and their child, Carol; and R. H. Mason, his wife, Joyce Mason, and their children, Susan, Mark and William; also known collectively as "Oak Cliff Citizens."

4. Herman Bond, et ux, Individually and as next friend for his son, Steven Bond, as representative of the class of Oak Cliff residents in the Kimball-Carter-

South Oak Cliff School District areas and areas adjacent thereto in the City of Dallas.

5. The City of Dallas.

6. The Metropolitan Branches of the Dallas N.A.A.C.P., the John F. Kennedy Branch, the Oak Cliff Branch and the South Dallas Branch (Respondent-NAACP).

7. Dr. E. Thomas Strom, Charlotte Strom, Charles Pankey, Norma Pankey, Donald K. Boldt, Dan and Mary Ann Boyd, Dr. R. E. Buchanan, Dolly M. Buenting, Fannie Demery, A. Douglas and Jill Foster, Thomas E. and Denise Gray, Calvin R. Heath, Bobbie Hickson, Lloyd G. Jones, Ruth L. Keefer, Peggy L. Kirkland, Margaret Leo, Lou O'Reilly, Pat and Marilyn Patterson, Dottie Pennebaker, W. R. and Ann Swaney, Virginie Trousdale, Gordon C. Yates, Rev. Montie W. Stewart, D. B. Barksdale, Mrs. Buford T. Bird, Clyde and Nellie Blevins, Wilma E. Borchardt, Gene and Arlene Boyd, Nancy Ruth Cawthon, Bob Chaffin, Louise Clayton, Jack O. Davis, Mr. and Mrs. Pedro Guillen, Denise Jenkins, Mr. and Mrs. Paul Jones, Mr. A. A. Kerby, Mr. and Mrs. G. R. Langford, David Langton, Mr. and Mrs. Marlin E. Langton, Mrs. L. D. McManus, Buddy and Barbara Pettway, Olen and Wanda Weaver and Mr. and Mrs. H. A. Wells, a group of individuals residing in and having children attending schools in the Dallas Independent School District.

8. Ralph F. Brinegar, Wallace H. Savage, Evelyn T. Green, Craig Patton, Dr. John A. Ehrhardt, Richard L. Rodriguez and Alicia V. Rodriguez, Mr. and Mrs.

Salomon Aguilar, Marjorie M. Oliver, Mr. and Mrs. Ruben L. Hubbard, Robert L. Burns, Dr. Percy E. Luecke, Jr., Dale L. Ireland and Barbara J. Ireland, and Evelyn C. Dunsavage, Individuals residing in the Dallas Independent School District.

9. The Dallas Alliance and the Education Task Force of the Dallas Alliance, Amicus Curiae.

APPENDIX "B"

OPINION AND ORDER

Filed: Mar. 10, 1976

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EDDIE MITCHELL TASBY and PHILIP WAYNE
TASBY, by their parent and next friend, SAM TASBY,
ET AL

versus CA 3-4211-C

DR. NOLAN ESTES, GENERAL
SUPERINTENDENT, DALLAS INDEPENDENT
SCHOOL DISTRICT, ET AL

The task presented to this Court is to adopt and implement a desegregation plan for the Dallas Independent School District (DISD) which will finally conclude the tortured history of this litigation and which

will establish a unitary, nonracial system of public education in the DISD, as required by *Brown v. Board of Education*, 347 U.S. 483 (1954). This cause is here on remand from the Fifth Circuit Court of Appeals' decision of July 23, 1975,¹ which affirmed in part and reversed in part this Court's 1971 desegregation order. The Fifth Circuit has instructed this Court to formulate a student assignment plan which will remedy the dual nature of the DISD found to exist in 1971.

I. The Parties

The cast of legal characters in this desegregation drama has changed since 1971, with the addition of new intervenors and the departure of intervenors previously in the case. The present actors still include the plaintiffs, representing a class of black and Mexican-American students in the DISD; the defendant DISD; the Curry intervenors, representing a group of North Dallas students; the intervenor James T. Maxwell, representing himself; and the City of Dallas.² Additionally, the Metropolitan Branches of the National Association for the Advancement of Colored People (NAACP) were granted leave to intervene on August 25, 1975; the Strom intervenors, representing a class of persons living in naturally integrated areas of Western Oak Cliff and Pleasant Grove, were granted leave to intervene on August 25, 1975; and the Brinegar intervenors, representing a class of persons living in the naturally integrated area

¹ *Tasby v. Estes*, 517 F.2d 92 (5th Cir. 1975).

² The City of Dallas remained a party to this phase of the proceedings but did not play an active role during this phase.

of East Dallas, were given leave to intervene on September 17, 1975.

On September 16 the Court challenged the business leaders of Dallas to become involved and further pointed out that everyone in the district had a job to do — that it was not a job for the Court alone. The business leaders have responded to the challenge and have shown their sincere interest. Many churches, their leaders, and many organizations have expressed significant interest and offered to assist the Court. Additionally, a group of citizens formed a committee composed of six blacks, seven Mexican-Americans, one American Indian and seven Anglos. This group became an affiliate of the Dallas Alliance and became known as the Educational Task Force of the Dallas Alliance. The Dallas Alliance is a community service organization designed to act on and aid in the solution of urgent issues of the community. It consists of a forty member Board of Trustees, and seventy-seven correspondent organizations in the Dallas area.

This Task Force met for a period of four months and spent approximately 1500 hours together in devising concepts and principles for a desegregation plan for a DISD. They sent various members of their group to cities around the country to discover all possible tools for desegregation, and met with or talked with thirty leading figures in the desegregation field. Finally, on February 17, 1976, the Alliance group filed their plan for the DISD with the Court. The Court granted them the status of Amicus Curiae for the purpose of presenting their ideas and plan to the Court, and heard evidence from Dr. Paul Geisel regarding the plan.

The Court has before it several student assignment plans, offered to remedy the dual nature of the DISD. The School Board, being charged with the responsibility of devising an acceptable plan,³ filed its plan on the 10th of September, 1975. The NAACP devised a student assignment plan which was also filed on September 10. The Court was not wholly satisfied with either of these plans, as it indicated in a hearing on September 16. Therefore, the Court employed an expert in the field of education and desegregation, Dr. Josiah C. Hall of Miami, Florida. Dr. Hall presented a student assignment plan to the Court which was filed December 29, 1975. The plaintiffs meanwhile were working on a student assignment plan, and ended up filing two plans on January 12, 1976. Likewise, the Education Task Force of the Dallas Alliance met for several months considering concepts for a desegregation plan for the DISD, and filed their results with the Court on February 17, 1976. In addition, the Court received and has considered other plans and suggestions from various citizens and groups.⁴

II. *Applicable Law*

In this complex and ever-changing area of the law, it is difficult if not impossible to discover hard and fast rules for this Court to follow. Certainly, the "transition to a unitary, non-racial system of public education was and is the ultimate end to be brought about."

³ *Brown v. Board of Education (II)*, 349 U.S. 294 (1955).

⁴ A group of students at Skyline High School drew a student assignment plan for the DISD and submitted it to the Court. Others were submitted by the Alliance for Integrated Education and a number of other groups and concerned parents.

Green v. County School Board, 391 U.S. 430, 436 (1967); *Alexander v. Holmes County Board of Education*, 396 U.S. 19 (1969); *Brown v. Board of Education II*, 349 U.S. 294 (1955). Similarly, this Court recognizes that "[t]he objective today remains to eliminate from the public schools all vestiges of state-imposed segregation." *Swann v. Board of Education*, 402 U.S. 1, 15 (1970).

Nevertheless, school districts are like fingerprints — each one is unique. Although the goal of a unitary, nonracial system is a constant, the method or plan for achieving that goal must be tailored to fit the particular school district involved. A plan that is successful in a district having a small student population or occupying a small area geographically, a rural district, a county-wide district, or a majority Anglo school district, will not necessarily be successful in a large urban district such as the DISD. As the Supreme Court observed in *Brown II*, *supra* at 299:

Full implementation of these constitutional principles may require solution of varied local school problems. School authorities have the primary responsibility for elucidating, assessing, and solving these problems; courts will have to consider whether the action of the school authorities constitute good faith implementation of the governing constitutional principles. Because of their proximity to local conditions and the possible need for further hearings, the courts which originally heard these cases can best perform this judicial appraisal.

Throughout the proceedings on remand, this Court has held foremost in its mind the unique characteristics of the DISD, in order to insure that a feasible, workable plan is adopted which will realistically establish a unitary system in the DISD.

The Fifth Circuit remanded this case with instructions to formulate a new "student assignment plan." The DISD has maintained throughout these proceedings that the Court can consider nothing except a bare-bones student assignment plan. Although this Court recognizes that the mandate from the Fifth Circuit referred consistently to formulating a "student assignment plan," it does not interpret that language as limiting this Court to a plan which merely provides for moving bodies between buildings. As the Fifth Circuit held in *Calhoun v. Cook*, 522 F.2d 717 (1975), rehearing denied, 525 F.2d 1203 (1975):

The aim of the Fourteenth Amendment guarantee of equal protection on which this litigation is based is to assure that state supported educational opportunity is afforded without regard to race; it is not to achieve racial integration in public schools.

A student assignment plan cannot operate in a vacuum; it must include whatever additional tools are necessary to carry out the mandate that equal educational opportunity be provided, and to insure that a truly unitary system is established.

In adopting a student assignment plan, this Court is required to arrive at a delicate balance — the dual

nature of the system must be eliminated; however, a quota system cannot be imposed. The Supreme Court ruled in *Swann*, supra at 26, that

[t]he district judge or school authorities should make every possible effort to achieve the greatest possible degree of actual desegregation and will thus necessarily be concerned with the elimination of one-race schools.

On the other hand, the Supreme Court held that

[t]he constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole.

Ibid. at 24.

In arriving at this balance, the practicalities of the situation are to be taken into account. *Davis v. School Commissioners of Mobile County*, 402 U.S. 33, at 37 (1970). These practicalities include travel time and distance, and the age of the children.

An objection to transportation of students may have validity when the time or distance of travel is so great as to either risk the health of the children or significantly impinge on the educational process. . . . It hardly needs stating that the limits on time or travel will vary with many factors, but probably with none more than the age of the students.

Swann, supra at 30.

The Fifth Circuit instructed this Court to use the techniques discussed in *Swann* to dismantle the vestiges of the dual nature of the DISD. The Supreme Court said in *Swann* that "[d]esegregation plans cannot be limited to the walk-in school," if this will not produce a unitary system. *Swann*, supra at 30. All available techniques are to be considered in the formulation of student assignment plans, including the restructuring of attendance zones and the pairing of both contiguous and noncontiguous attendance zones. *Swann*, supra; *Davis*, supra.⁵

The Supreme Court's decision in *Swann* also emphasized the equitable nature of the remedies phase of a desegregation case. It quoted the following language from *Brown II*:

In fashioning and effectuating the decrees, the courts will be guided by equitable principles. Traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs.

Swann, supra at 12. Later it stated:

In seeking to define even in broad and general terms how far this remedial power extends it is important to remember that judicial powers

⁵ The pairing of noncontiguous attendance zones and the use of transportation is of course limited by the practicalities mentioned above.

may be exercised only on the basis of a constitutional violation . . . As with any equity case, the nature of the violation determines the scope of the remedy.

This Court has kept in mind throughout these proceedings that its findings in 1971 were that the "vestiges" of a dual school system remained in the DISD, and not that the DISD was a dual system at that time. The plan adopted now must therefore remedy these vestiges without exceeding this Court's equitable powers to balance public and private needs.

Finally, guidance as to the role of this Court has been given by the Supreme Court in *Green*, supra at 439:

The obligation of the district court, as it always has been, is to assess the effectiveness of a proposed plan in achieving desegregation. There is no universal answer to complex problems of desegregation; there is obviously no one plan that will do the job in every case. The matter must be assessed in light of the circumstances present and the options available in each instance. It is incumbent upon the school board to establish that its proposed plan promises meaningful and immediate progress toward disestablishing state-imposed segregation. It is incumbent upon the district court to weigh that claim in light of facts at hand and in light of any alternatives which may be shown as feasible and more promising in their effectiveness. . . .

Moreover, whatever plan is adopted will require evaluation in practice, and the court should retain jurisdiction until it is clear that the state-imposed segregation has been completely removed.

With this task in mind, the Court heard testimony regarding the feasibility and effectiveness of these plans presented by the parties during hearings which lasted continuously from February 2 to March 5. All the plans utilize, to varying degrees, the concepts of pairing and clustering schools, and of transporting students for the purpose of establishing an integrated or unitary school system, as approved by the Supreme Court in *Swann*, supra. Each of the plans incorporates other tools, as well as transportation, to help insure that an integrated school system is achieved. The Court finds some meritorious suggestions in each of the plans, including the concept of magnet schools suggested by the DISD, the plaintiffs and others; the majority to minority transfer program advocated by all parties; and the concept of a monitor or auditor proposed by the plaintiffs, the NAACP and the Dallas Alliance Task Force. The Court is convinced that the plan of the Educational Task Force of the Dallas Alliance will effectively establish a unitary system of education in the DISD and that it "promises realistically to work now." *Green*, supra at 439.

III. *Present Characteristics of the DISD*

The most significant feature of the DISD now as opposed to 1971 is that the DISD is no longer a predominantly Anglo student school system. In the

years which have intervened since this Court's 1971 order, the percentage of Anglos in the DISD has declined from 69% to 41.1%, and projections show no reversal of this trend to a predominantly minority district. According to the most recently compiled figures,⁶ the racial composition of the DISD student body is 41.1% Anglo, 44.5% black, 13.4% Mexican-American, and 1.0% "other." In the 1970-71 academic year, the DISD enrolled 163,353 students in grades 1-12, whereas in December, 1975, the DISD enrolled only 131,757 students. Over the past five years the DISD has lost, for one reason or another, 40.9% of its Anglo student population.⁷

Nevertheless, the DISD continues to be the eighth largest school district in the nation, covering an area of approximately 351 square miles. Its 180 separate campuses house 141,122 students (including kindergarten), and its total expenditure for the 1975-76 academic year is \$164,788,000.

Although the DISD in 1975-76 cannot be considered to be wholly free of the vestiges of a dual system, significant strides in desegregation have been made since the Court's 1971 order as a result of natural changes in residential patterns in the past three years. In the 1970-71 school year, 91.7% of all black students in the DISD attended predominantly minority schools, whereas in the 1975-76 school year, the percentage has dropped to 67.6%. Testimony during the hearings

⁶ Dec. 1, 1975, DISD *Hinds County* figures. See Appendix A for racial composition of each grade level.

⁷ An HEW Report shows that in October 1969 there were 97,103 Anglo students in grades 1-12, and in October 1975 there were 57,426 Anglo students in grades 1-12.

showed that large areas of Dallas which formerly reflected segregated housing patterns are now integrated, namely Western Oak Cliff, Pleasant Grove, East Dallas, the area of North Dallas included in the attendance zone for Thomas Jefferson High School.⁸

Testimony also established that the DISD has undertaken in good faith and on its own to equalize the educational opportunity for all children during recent years. The plaintiffs introduced a 209-page *Report of a Study of Instruction in the Dallas Independent School District 1974-1975* which was conducted by Dr. Francis S. Chase and eight staff associates. This report was initiated by the School Board, but Dr. Chase testified that he and his staff, who had no connection with the DISD, were not impeded in any way in conducting this study or presenting their findings. Their findings included the following passage:

The staff of the Study of Instruction has identified a number of characteristics in which the Dallas Independent School District is either preeminent or close to the top among public school systems. Some of these characteristics which hold high potential for the improvement of education are:

1. The commitment to, and the heavy investment of resources in, curriculum, design, development, and implementation.
2. A broadly conceived and well-staffed program of research and evaluation to define

⁸ See Appendix B, an exhibit introduced by the Strom intervenors which shows the changes in racial composition of formerly predominantly Anglo secondary schools.

needs, inform decisions, assess the effectiveness of programs and services, and indicate deficiencies in program implementation or operation.

3. The creation of an extensive network of communications through which community organizations and large numbers of teachers, students, parents, and other citizens may learn about and participate in educational decisions and programs.

4. Frank acknowledgment of barriers to equal educational opportunity, followed by constructive measures such as the Affirmative Action Program, the extension of Multi-Ethnic Education, the implementation of Plan A for better treatment of learning disabilities, and support for inner-city school renewal projects.

5. The number and variety of innovations initiated and the continuing search for ways of responding to the demands for improved education.

6. The extensive program of personnel development through released time, other special programs, and four area teacher centers which work in cooperation with seven colleges and universities.

7. The planning, development, and operation of career education programs and emphases — with continuing efforts to extend and improve career education at all levels.⁹

⁹ *Study of Instruction*, pp. 35-38.

In spite of the DISD's efforts, Dr. Chase' study concluded that there is still a gap between intent to provide equal educational opportunity and the achievement of this goal. But the study also concluded that the DISD is accepting the continuing challenge to speed progress and close this gap.

The Dallas Independent School District, in recent years, has acknowledged frankly the existence of persisting inequalities and inadequacies in its provisions for education. Instead of regarding these conditions as inevitable, the District has moved progressively to treat them as challenges with which it must cope swiftly and effectively. All school systems, and especially those in our larger cities, are faced with the urgent necessity of alleviating the learning disabilities which have their roots in poverty, prejudice, and other forms of discrimination. No other school district offers a better prospect for significant progress in this direction.¹⁰

The study thoroughly evaluated the DISD's programs, pinpointing areas which needed improvement and making recommendations to that end.¹¹ Dr. Chase testified that this study was unique in the amount of response it elicited from the School Board and the Administration; he testified that there is not one item cited that the Board and Administration have not responded to in some way. His testimony was that there can never be a perfect school system, but that at

¹⁰ *Ibid.*, p. 200.

¹¹ *Ibid.*, pp. 205-209.

least the DISD is conscientiously on the road to providing equal educational opportunity for all.

The plan which this Court is ordering to be implemented promises to continue this trend of desegregation and will, when fully implemented, remove all vestiges of the former dual system in the DISD. The Court is convinced that this plan will, at the same time, "assure that state supported educational opportunity is afforded without regard to race." *Calhoun*, supra at 396. *Milliken v. Bradley*, 418 U.S. 717, 740-741 (1974); *Alexander v. Holmes County Board of Education*, 396 U.S. 19, 20 (1969); *Brown v. Board of Education*, 349 U.S. 294, 301 (1955).

IV. An Analysis of the Plans Before the Court

A. DISD's Plan

The DISD's plan was devised by the staff of the DISD under the direction and supervision of Dr. Nolan Estes. The district is divided into three categories for the purpose of student assignment — the integrated parts of the school district,¹² the remaining predominantly Anglo parts of the district,¹³ and certain minority parts of the district. The DISD's plan proposes to retain the present student assignment patterns for the naturally integrated areas,¹⁴ as desegregation has

¹² These areas are integrated due to residential housing patterns.

¹³ These areas lie generally across the far northern and eastern portions of the DISD.

¹⁴ "Integrated" was defined by the DISD as not more than 75% Anglos or more than 75% combined blacks and Mexican-Americans.

already occurred in these areas.¹⁵ Pairing and clustering techniques, both contiguous and noncontiguous, were used to desegregate grades 4-12¹⁶ of the predominantly Anglo areas of the district. The grade configurations were proposed to be:

K - 3 Elementary Schools

4 - 5 Intermediate Schools

6 - 7 Middle Schools

8 - 9 Junior High Schools

10 - 12 Senior High Schools.¹⁷

The remaining predominantly minority areas of the districts would continue to be served by predominantly one-race minority schools.¹⁸

In addition, the DISD proposed to set up 17 magnet schools to serve the entire district. Ten of these magnets would be for the elementary level, and would offer "fundamental" programming¹⁹ or "individually

¹⁵ There are 55 schools meeting this criteria.

¹⁶ Grades K-3 would continue to attend schools closest their homes.

¹⁷ There are 72 schools in this category.

¹⁸ There are 48 schools in this category serving 42 attendance zones.

¹⁹ "Fundamental" programming was described as concentrating on reading, writing, and arithmetic, and being a highly structured environment.

guided" programming.²⁰ Seven of the magnets would operate on the secondary level (grades 8-12 in six of the seven cases), and would offer a variety of programs oriented toward careers, the creative and performing arts,²¹ transportation and technology,²² and world cultures. These programs are all in existence now in the DISD and are proving extremely successful.²³

Finally, the DISD's proposal included the retention of the majority to minority transfer program presently in existence in the DISD.

The analysis showed that 13,947 students would be transported for desegregation purposes,²⁴ and that the total cost to implement²⁵ would be \$6,811,240, causing a 9¢ tax increase.²⁶

²⁰ "Individually guided" programming was described as using a diagnostic prescriptive approach in a highly flexible setting. There would be approximately one teacher for every 15 students, and the students would be able to move along at their own pace.

²¹ This magnet would be located near Fair Park and would have those cultural facilities available.

²² This magnet would be located at Love Field, the airport recently closed.

²³ Skyline Career Development Center, serving grades 10-12, is recognized as one of the outstanding magnet schools in the nation.

²⁴ In the Western Oak Cliff area, the DISD's proposal would transport 1500 black students to predominantly minority schools.

²⁵ This includes the cost of buses, bus monitors, building modifications, portable classrooms, and magnets.

²⁶ Ch. 20.04d of the Texas Education Code, based on Art. 7 § 3 of the Texas Constitution, limits the assessment of school taxes for any school district in Texas to \$1.50 per \$100 property value. The tax rate for the DISD presently is \$1.40 per \$100 property value. Thus any plan which increases the taxation rate more than 10¢ would cause an increase in class size past the present 27 students, or else cause a reduction in enrichment programs.

B. Plaintiffs' Plans

Plaintiffs' proposed plans were devised by the plaintiffs' attorneys, using guidelines laid down by Dr. Charles Willie of Harvard.

1. Plan A

Under Plan A, the DISD would be divided into seven elementary subdistricts. An attempt was made to have each school reflect the racial composition of that subdistrict. The naturally integrated elementary schools retained their present student assignment patterns.²⁷ All other schools were paired or clustered for grades 1-12.²⁸ The grade configurations proposed were grades K, 1-3, 4-6, 7-9, and 10-12.²⁹

Plaintiffs proposed the use of magnet schools constructed in the inner city to draw Anglos into those areas. They suggested the retention of the majority to minority program. They suggested that the DISD expand and improve its in-service training program for faculty and staff. Finally, they proposed a system of accountability to insure that the DISD complies with this Court's order and with the goal of quality education for each student enrolled in public school.

An analysis of Plaintiffs' Plan A showed that approximately 69,000 students would be transported, and

²⁷ There were 13 elementary schools in this category.

²⁸ Kindergarten children would attend the schools closest their homes.

²⁹ This was done wherever possible. Other grade configurations do appear, such as K, 1-4, 5-6, 7-9, 10-12.

that the projected total cost to implement³⁰ would be \$22,030,590, causing a 29.4¢ tax increase.

2. Plan B

Under Plan B, the DISD would be divided into eight elementary level subdistricts. The residentially integrated areas were not included in the new student assignment patterns.³¹ One of the subdistricts would remain predominantly minority and would retain its present assignment patterns,³² but would become a "model cluster" with enhanced facilities and programs. The other areas were paired and clustered to achieve desegregation.

In addition, Plan B calls for magnet schools in all schools which had a predominantly minority enrollment prior to this year to enhance the attractiveness of these schools.³³ Plan B proposes the expansion of the DISD's present bi-lingual program.³⁴ Other features such as the majority to minority transfer program, in-service training, and a monitor or system of accountability mentioned above would also be included in Plan B.

³⁰ DISD's projection based on the elements of Plan A, including cost of buses, bus monitors, building modification, and portable classrooms.

³¹ There are 39 elementary schools in this category.

³² This is the South Oak Cliff area, and included twelve elementary schools, two junior high schools, and one high school.

³³ This would include renovations and curriculum revision.

³⁴ Testimony from several experts indicated that the DISD's bi-lingual program is the best in the nation. Dr. Estes testified that the DISD is presently attempting to expand this program to all schools as rapidly as possible, but that the demand for bi-lingual instructors is presently greater than the supply.

An analysis of Plan B showed that approximately 47,000 students would be transported under this plan. The estimated cost of implementation³⁵ is \$14,963,680, which would necessitate a 20¢ tax increase per \$100 property value.

C. NAACP Plan

The NAACP's proposal was drawn by Dr. Charles Hunter of Bishop College. It contained a number of concepts and proposals to be utilized by the DISD in implementing the plan, as well as a rough outline of schools to be paired and clustered to achieve desegregation. The naturally integrated areas were left with their present assignment patterns, and the rest of the schools were paired and clustered so that every school would have a racial balance comparable to the racial balance in the district (with a 10% variance up or down).³⁶ Innovative programs would be fostered in the inner city schools, as well as in magnet schools, which would operate on a district-wide basis. Among other suggestions, the NAACP plan proposed monitoring procedures which would be available to make adjustments in student assignments when changes in racial patterns are noted.

³⁵ Using the same criteria mentioned above.

³⁶ The NAACP proposed to achieve racial balance between blacks and Anglos first and then follow with other minorities.

An analysis of the NAACP's plan indicated that approximately 40,000 students would be transported. The estimated partial cost³⁷ is \$7,163,310, necessitating a 15-1/2¢ tax increase for the buses and bus monitors alone.

D. Dr. Hall's Plan

The student assignment plan submitted to the Court by Dr. Hall is similar to those of the DISD and Plaintiffs' Plan B, in that it divides the district into the categories of residually integrated areas,³⁸ paired and clustered areas, and predominantly minority areas. The naturally integrated areas would retain their present assignment patterns.³⁹ Schools in predominantly Anglo areas are paired clustered with schools in predominantly minority areas to the greatest degree possible.⁴⁰ The grade configuration for this category of schools is K-1 (nearest schools), 2-5, 6-7, 8-9, and 10-12. If the time and distance proved to

³⁷ It was not possible to give an estimated total cost because expenditures for building modification, moving portables and equipment could not be determined under their plan.

³⁸ Dr. Hall's guideline for determining an integrated school is no more than approximately 75% nor less than approximately 30% of combined minority groups.

³⁹ There are approximately 55 schools in this category.

⁴⁰ The factors of time and distance were taken into account by all parties — the DISD and Dr. Hall limited time of transportation to 30 minutes each way. The Plaintiffs strove for this, but acknowledged that in their plans greater time was involved. The NAACP's plan limited time of transportation to 40 minutes.

be too great, then the schools would retain their present assignment patterns.⁴¹

In addition, Dr. Hall proposed the establishment of Early Childhood Centers in Title I⁴² areas. These centers would be for ages 5 and 6, and hopefully age 4, and would provide enriched programs, using State and Federal Compensatory Education funds, with a pupil-teacher ratio of approximately 20-1. Additional personnel would also be provided as well. Dr. Hall also recommended using these centers as Community centers.

Dr. Hall recommended the continuation of the DISD Metropolitan Learning Centers for secondary school students who do not respond to the traditional school setting. He suggested maintaining the present magnet school of Skyline Center for Career Education, and expanding the magnet concept wherever possible.

An analysis of Dr. Hall's plan indicates that approximately 20,000 students would be transported for desegregation purposes. The estimated cost of his plan⁴³ would be \$7,163,310, and would necessitate a tax increase of 9.6¢.

⁴¹ The statistics regarding time and distance on these schools were carefully documented. There are 34 predominantly minority schools in this category. Five of the schools were elementary schools who would move on to integrated junior high and high schools. The schools in this category were considered by Dr. Hall to be superior schools (with the exception of renovation at three schools) in terms of facilities and the environment in which the schools are located. Nineteen of the schools in this category were at one time predominantly Anglo schools.

⁴² This refers to funds provided for certain areas under the Elementary and Secondary Education Act of 1965.

⁴³ This cost estimate was again provided by the DISD using the same criteria mentioned above.

E. The Dallas Alliance Plan

The student assignment plan proposed to the Court by the Dallas Alliance Task Force on Education utilizes many of the concepts or tools used in the other plans, and also introduces new concepts. Like the plaintiffs' plans, the Alliance plan divides the DISD into smaller subdistricts. These attendance areas or subdistricts would in general reflect the Northwest, Northeast, Southeast, South Oak Cliff, and Southwest geographical sections of the district. Every subdistrict except South Oak Cliff would have approximately the same student population and would have minority ratios which would approximate that of the whole DISD, plus or minus 5%. Grade levels would be standardized on a K-3, 4-8, 9-12 basis. For grades K-3, new attendance zones would be drawn to achieve as much natural desegregation as possible, and students would be assigned to the nearest school which would promote integration, not to exceed four miles from home. Attendance zones in K-3 would not necessarily consider the five attendance zones.

On the K-3 level, special teaching strategies and enriched program options would emerge for students in all areas. The Alliance plan proposes that efforts to maximize parent involvement following the Early Childhood Education model from California be introduced in September 1976 and completed by September 1979. This K-3 approach would be primarily diagnostic-prescriptive. It would result in an adult-student ratio in instruction of approximately 1-10. (Adult is a teacher aide, a parent, an older student tutor, etc.)

For grades 4-8, students would only be assigned to schools within the attendance subdistrict in which they live. Areas that are naturally integrated would retain their present student assignment patterns (except that 8th grade would be added to the lower grades). Students in areas that are not naturally integrated would attend schools in the center of each subdistrict in which they live, in a manner so that each school's minority ratio reflects the minority ratio of the 4-8 student population of the area, plus or minus 10%. Magnet schools for 4-8 would also be established, with a priority on magnets in the South Oak Cliff area. The magnets would be open to all 4-8 students in the DISD on a voluntary basis. The magnets would also reflect the minority ratios of the 4-8 student population in all areas (with the exception of South Oak Cliff), with allowance for a 10% plus or minus variation from the percentage of all minority students in the DISD.

For grades 9-12, the Dallas Alliance proposes Magnet High Schools and Magnet Comprehensive High Schools.⁴⁴ These would be open to all 9-12 students on a voluntary basis, but with minority ratios of the 9-12 student population of the DISD, with allowance for a 10% plus or minus variation from the percentage of all minority students in the DISD. Partnerships and working relationships between institutions of higher learning, the business and the cultural communities would be encouraged with each magnet high school. During the 1976-77 school year, at least four additional magnets would be opened in the

⁴⁴ A Magnet Comprehensive High School includes regular high school curriculum as well as special career and other programs.

central area of the city,⁴⁵ and at least three additional magnets would be established by 1979-80. Each magnet would accommodate a minimum of 1,000 students, and would open as rapidly as it fills. Seven magnets would be therefore considered a minimum, not a maximum number to be implemented. Until all students attend magnet high schools, grades 9-12 would attend the nearest area high school in the sub-district in which the students live.

Aside from student assignment concepts embodied in the K-3, 4-8, and magnet 9-12 arrangement, the Alliance plan addresses itself to other facets of a unitary school system. With regard to personnel, it proposes the development of recruiting and employment policies to insure that competent personnel are employed at all levels and that the percentages of white, black and brown administrators, principals, teachers approximate DISD-wide the respective percentages of those races represented in the City of Dallas in 1976, as a minimum, within three years. The DISD would rely on expanded scope of positions, reassignment, and attrition to meet that goal. It proposes that the top salaried line administration positions (currently established at 185 in number)

⁴⁵ These were suggested as

- 1) a new magnet comprehensive Lincoln High School, costing approximately \$14,500,000
- 2) a magnet for Business Education and Management at Crozier Tech. established in cooperation with the businesses in the Central Business District (the downtown Dallas area)
- 3) a magnet for the creative arts of Madison High School, due to its proximity to the Fair Park Music Hall and other cultural facilities
- 4) a magnet for aviation training at Love Field, the airport partially closed due to the opening of the Dallas-Fort Worth Regional Airport, etc.

reflect the percentages of the ethnic makeup of the DISD student population (approximately 44% Anglo, 44% black, and 12% Mexican-American) by 1979. This transition would occur on a schedule of one-third by 9/1/77, one-third by 9/1/78, and one-third by 9/1/79.

The Alliance plan also proposes training for teachers to improve their proficiency and their ability to perform in a multicultural setting, assessment on a regular basis of the competence of personnel, and a system of internal and external accountability measures to insure that a unitary system was in fact achieved.

Although the exact numbers of students transported and the exact cost could not be determined,⁴⁶ it has been established by the DISD that approximately 20,000 students would be transported at a cost of \$5,830,000, necessitating a tax increase of 7.8¢. The funds for the capital expenditure of \$16,500,000 for magnet schools the first year would be accommodated by the present bond issuance, without any additional tax increase. The annual operating cost of this plan has been estimated at \$5,000,000. This plan therefore is economically feasible without the increase in class size or decrease in established programs.

V. The Plan to be Implemented

The Court has carefully considered the various concepts suggested in the plans briefly summarized above, and finds that the following tools will be most

⁴⁶ The administration and staff of the DISD need to work out the details of this plan.

effective in addressing and solving the problem of vestiges which remains in this large urban district of ours.

A. The Subdistrict Concept

Several experts, including the plaintiffs' Dr. Charles Willie, testified that with a city as large as Dallas, a series of subdistricts (each with elementary, middle, and high schools) is more effective than one large district. This will give parents and students a sense of community and control over their schools, which the Supreme Court has recognized as so important to the successful functioning of our schools.

No single tradition in public education is more deeply rooted than local control over the operation of schools; local autonomy has long been thought essential both to the maintenance of community concern and support for public schools and to quality of the educational process. See *Wright v. Council of the City of Emporia*, 407 U.S. 451, at 469. Thus, in *San Antonio School District v. Rodriguez*, 411 U.S. 1, 50 (1973), we observed that local control over the educational process affords citizens an opportunity to participate in decision-making, permits the structuring of school programs to fit local needs, and encourages "experimentation, innovation, and a healthy competition for educational excellence."

Milliken v. Bradley, 418 U.S. 717, at 742 (1973). Moreover, it helps minimize the transportation dis-

tance and time, since this is limited to each sub-district.⁴⁷

Each subdivision will approximate the racial makeup of the DISD as a whole, with the exception of South Oak Cliff.⁴⁸ Due to the geographic layout of the DISD, and the factors of time and distance, this South Oak Cliff area was left predominantly black in every plan proposed to the Court, with the exception of Plaintiffs' Plan A, which proposed to establish an exact racial balance in every school and which would have necessitated the transportation of 49,000 students. The Court is of the opinion that, given the practicalities of time and distance, and the fact that the DISD is minority Anglo, this subdistrict must necessarily remain predominantly minority or black. However, this does not mean that the goal of equal educational opportunity for all cannot be achieved. In terms of facilities, Dr. Hall testified that with the exception of Budd and Harllee Elementary Schools and the site at Roosevelt High School, the facilities in this area can be categorized as superior. Additionally, Dr. Hall testified that the environment in which each center is located, i.e., the property immediately adjacent to the schools, as well as the residential area

⁴⁷ Magnet schools would be on a city-wide basis, however.

⁴⁸ Estimates show that the racial makeup would be as follows:

		Anglo	Black	Mexican-American
I.	Northwest	44%	39%	16%
II.	Northeast	41%	42%	17%
III.	Southeast	46%	46%	8%
IV.	South Oak Cliff		98%	2%
V.	Southwest	42%	27%	31%

served by them, can be classified as superior. Dr. Hall testified that educational opportunities in terms of facilities or programs would not be improved by complete redistribution of all pupils, and in some situations, they would be lessened.

With the renovation of some of the facilities in this area, this subdistrict could be a model for the district and the nation, and attract Anglos to it on the basis of its superior programs and facilities.

B. The K-3 Diagnostic-Prescriptive Concept

The Court adopts the Dallas Alliance' concepts regarding grades K-3 for a number of reasons. As the Supreme Court observed in *Swann*, the most important factor to consider in implementing a transportation plan is the age of the children in relation to the time and distance travelled. Dr. Estes testified that the DISD's plan left the K-3 grades in the schools nearest their homes due to the fact that the children had not matured sufficiently to cope with the problems of safety and fatigue associated with significant transportation. The Court finds that this conclusion is sound, in terms of age, health, and safety of children in grades K-3.

Furthermore, there appears to be no deprivation of the right of the minorities to equal educational opportunities on the K-3 level. As Dr. Chase testified, the disparity, if any, is in favor of the lower socioeconomic areas on the K-3 level, due to the special programs and efforts of the DISD in those areas.

Finally, the diagnostic-prescriptive concept so successfully used in California will insure that children everywhere in the district will be afforded equal educational opportunity and that any remaining vestige of a dual system (if it in fact exists on the K-3 level) will be eliminated.

C. The 4-8 Central Area Concept

The concept of locating grades 4-8 close to the center of each Area or Subdistrict is based on pragmatic considerations. Transportation distance and time will be minimized for all students in these grades, no matter where they live in each subdistrict. By bringing all students in each subdistrict together in these grades, the plan assures that no group is deprived of equal educational opportunity. By locating special magnet programs in the South Oak Cliff area in grades 4-8, this area will attract students of all races from the district as a whole, and will insure that this area is not deprived of educational opportunities.

D. The 9-12 Magnet Concept

The magnet concept, widely used in other school districts, attracts students because of special career, vocational, or other programs that the magnet school offers. It is undisputed that the Skyline Career Development Center, which offers a myriad of career-oriented programs, is a model for the nation and that it demonstrates the success magnet schools can have in drawing students of all races and in offering quality education for all.⁴⁹

⁴⁹ The student body at Skyline presently reflects an ethnic population of approximately 60% Anglos, 33% blacks and 6% Mexican-Americans.

Moreover, this Court must adopt a plan which promises to be *effective* in eliminating the vestiges of a dual system. The Court is convinced that the magnet school concept on the 9-12 grade level will be more effective than the assignment of students to achieve a certain percentage of each race in each high school. The Court tried this method of student assignment in 1971, and it has not proven wholly successful in achieving the goal of eliminating the vestiges of a dual system in these grades. The evidence shows that of approximately 1,000 Anglos ordered to be transported to formerly all-black high schools under this Court's 1971 student assignment plan, fewer than 50 Anglo students attend those schools today. Whatever the cause might be for the non-attendance of Anglos in those schools today,⁵⁰ this Court finds that it can in no way be attributed to official actions on the part of school authorities.

⁵⁰ As a result of the offer of evidence of the Curry intervenors, the battle of the sociological experts developed. The Curry intervenors took the position that a "forced busing" order would cause resegregation and a further reduction of the Anglo student population of the DISD. Plaintiffs responded that desegregation orders, even those including "forced busing," are not the prime factor in a decrease in Anglo school population. Whatever may be the strength or weakness of the opinions of these experts and the bases on which such opinions were reached, the fact remains that in the DISD between the 1971 desegregation order and today the Anglo student population has decreased by approximately 40,000. It is a well-settled principle of law that "the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them." *Brown II*, at 300. Nevertheless, this Court cannot control the prejudice or anti-busing sentiment which might exist in the minds of some private individuals. The mandate of the Supreme Court is to adopt the plan which promises realistically to be most effective, and after our experience with the 9-12 level, this Court is of the opinion a magnet school approach will accomplish this goal. See *Mapp v. Board of Education*, 525 F.2d 169 (1975).

While some blacks are still transported today to previously all-Anglo schools, these students could continue to do so under the majority to minority program, or could attend any magnet high school in the district. It should also be noted that changes in demographic patterns have resulted in the drastic reduction of predominantly Anglo high schools in the DISD.

The most realistic, feasible, and effective method for eliminating the remaining vestiges of a dual system on the 9-12 level, and for providing equal educational opportunity without regard to race, is the institution of magnet schools throughout the DISD. In this way, students of all races will join in working in areas of their special interest. Although these magnet schools cannot be created with the wave of a wand, they can be established at an accelerated pace with the help, financial and otherwise, of the business community of Dallas. The Court requests and sincerely believes that the business community will provide its resources and talents to help the DISD in this way. The Adopt-a-School program, presently operated by the DISD and such major corporations as Xerox and Bell Telephone, provides an example of what can be achieved through the cooperation of DISD administrators and educators on the one hand, and the business, educational, and cultural communities on the other hand. With the creation of this network of magnet schools, there can be no doubt that all vestiges of a dual system are eliminated.

E. The Concept of Naturally Integrated Areas

As mentioned above, there is a substantial number of schools in the DISD in which the racial makeup of the student population reflects naturally integrated housing patterns. Two groups of intervenors represent parents and students living in several of these residentially integrated areas — namely the Strom intervenors, representing Western Oak Cliff and Pleasant Grove, and the Brinegar intervenors, representing East Dallas. These intervenors maintain that where integration in schools has been achieved through natural housing patterns, the present student assignments should be retained, since no vestiges of a dual system remain in these areas. The Court is in agreement with this concept. There is no denial of the right of educational opportunity in these areas, and, as all parties recognized, there would be no benefit, educational or otherwise, in disturbing this trend toward residential integration.⁵¹

F. The Concept of Accountability

As The Supreme Court recognized in *Green*, supra at 439, "whatever plan is adopted will require evaluation in practice"

A system of accountability performs three general functions:

⁵¹ The Brinegar intervenors pointed up the fact that since the Dallas Alliance plan does not yet detail student assignments, it is difficult to determine its impact on the integrated areas. The Court recognizes this problem, and will provide a one-week period after the student assignment portions of the plan are filed with the Court as hereinafter directed, for recommended modifications, if any, regarding the naturally integrated areas.

- 1) it informs the Superintendent and the School Board how the administration is responding to the goals and objectives of the plan;
- 2) it provides the Court with an objective evaluation of the DISD's compliance with the ordered plan;
- 3) it informs the citizenry and serves as a tool for constructive input.

The Court is adopting the Alliance plan's concepts of accountability. Regarding the internal monitor, it will be acceptable for the DISD's Research and Development Department⁵² to report to the Court. This report shall be on December 15 and April 15 of the year, until a showing that a unitary system has been achieved. This report should include:

1. The number and percentage of pupils by ethnicity attending each educational center, including magnet schools.
2. The number and percentage of pupils by ethnicity being transported for desegregation purposes.
3. The number and percentage of pupils by ethnicity obtaining majority to minority transfers (including the exception for Mexican-American students).
4. The number and percentage of teachers by ethnicity assigned full time in each educational center.

⁵² If the DISD wishes to develop some other monitor or unit to report to the Court, it is free to do so.

5. The number and percentage of new teachers, administrators, and teacher aides by ethnicity engaged by the DISD.
6. The current status of capital outlay projects.
7. The status of Early Childhood Education program.
8. The results of the annual standardized achievement tests program by school, grade, and ethnicity (April 15 report only).
9. Efforts made by the system to successfully implement the order of this Court in the following areas:
 - a. Parent involvement efforts
 - b. Staff development activities
 - c. Communications and community relations programs
 - d. Student leadership training programs

(April 15 report only).

Subject to the approval of the selection by the Court, the DISD shall also secure the service of an independent professional firm to evaluate compliance with this order and the efforts to achieve a unitary system by the DISD. Such report should be filed with the Court annually on April 15, until a showing is made that a unitary system has been achieved. The criteria for monitoring suggested by the Alliance plan should be used as guidelines for this external monitor.

The Tri-Ethnic Committee established by the Court's 1971 order has served as community monitor for the Court, the School Board, Superintendent, and

the public regarding compliance with that order. The Tri-Ethnic Committee will continue its efforts in this regard with the same powers, duties, and responsibilities provided in the Court's 1971 order except that it is relieved of any duty to select independent evaluation services from outside the DISD.

Finally, the Court is aware of the fact that demographic changes may necessitate revisions in student assignments in the future. Therefore the Court will retain Dr. Josiah Hall as an advisor to the Court and may call on him to recommend revisions or to review recommendations of the DISD regarding future student assignment.

G. Personnel Concepts

It is well-settled that school administration and personnel play an important role in the achievement of a unitary school system. Administrators and personnel must be responsive to the needs of all racial groups, and must not discriminate against any group on the basis of race. In order to achieve and maintain a truly unitary DISD, the Court is adopting the personnel concepts of the Alliance plan. The Court is aware that training programs for teachers, principals and administrators already exist in the DISD. Naturally, these programs should be continued.

H. Majority to Minority Transfer Concept

None of the parties dispute the usefulness of this tool in providing educational opportunity without regard to race. This program will remain in effect for

all grade levels under the guidelines presently utilized by the DISD,⁵³ with the exception that minority to majority transfers will be allowed in instances where Mexican-Americans comprise less than 5% of the originally assigned school. This exception will be allowed in order that the bi-lingual education program will be available to all Mexican-American students who need it.

VI. Conclusion

The DISD has acted in good faith since this Court's order in 1971 and has made reasonable efforts to fulfill the obligations imposed by that order. The DISD has further taken good faith steps to eradicate inequality in educational opportunity which has previously existed in the DISD. Had the DISD not shown a willingness to improve the quality of education for all its students, and especially those in the minority areas which previously had been neglected, this Court might feel impelled to adopt a different remedy. However, the vestiges of a dual system remaining in the DISD can be realistically and effectively eradicated by the implementation of the plan adopted herein. This will not mean that the DISD will be perfect, for school districts are run by mere mortals, and judicial decrees can make them no more. It will mean that the DISD has fulfilled its obligation, under the Equal Protection Clause of the Fourteenth Amendment to the Constitution, that state-supported educational opportunity be afforded without regard to race.

⁵³ The use of the four-day school week for majority to minority transfer students shall be discontinued.

Accordingly, it is ORDERED by the Court that the modified plan of the Educational Task Force of the Dallas Alliance filed with the Court on March 3, 1976, is hereby adopted as the Court's plan for removal of all vestiges of a dual system remaining in the Dallas Independent School District, and the school district is directed to prepare and file with the Court a student assignment plan carrying into effect the concept of said Task Force plan no later than March 24, 1976.

/s/ W. M. TAYLOR, JR.
UNITED STATES DISTRICT
JUDGE

MARCH 10, 1976

Appendix A
Ethnic Composition of the DISD

42a

Grade Level	Anglo	%	Black	%	Mexican-American	%	Other	%	Total
K	3254	34.8	4429	47.3	1595	17.0	87	.9	9365
1	4260	36.7	5274	45.5	1955	16.9	113	1.0	11602
2	4095	36.9	5080	45.7	1822	16.4	104	1.0	11101
3	3947	36.7	5056	46.9	1648	15.3	118	1.1	10769
4	3756	35.5	5098	48.1	1608	15.2	131	1.2	10593
5	4226	37.5	5251	46.6	1672	14.8	125	1.1	11274
6	4543	39.3	5394	46.6	1504	13.0	128	1.1	11569
7	4853	41.0	5356	45.2	1532	12.9	103	.9	11844
8	5039	42.2	5343	44.8	1438	12.1	115	1.0	11935
9	5231	43.5	5406	45.0	1286	10.7	100	.8	12023
10	5287	45.4	4943	42.5	1259	10.8	155	1.3	11644
11	4828	51.5	3526	37.5	936	10.0	93	1.0	9383
12	4704	58.7	2611	32.6	634	7.9	71	.8	8020
TOTAL	58023	41.1	62767	44.5	18889	13.4	1443	1.0	141122

43a

Appendix B
Ethnic Percentages for Integrated
Dallas Jr. High Schools

Jr. High	Year	Anglo	Black	Mexican-American
Atwell	1970	82.0%	16.6%	1.1%
	1975	34.6%	61.7%	2.9%
Browne	1970	97.6%	0.1%	1.7%
	1975	45.0%	46.5%	7.6%
Cary	1970	89.0%	2.8%	7.9%
	1975	63.0%	18.1%	17.4%
Comstock	1970	90.5%	1.3%	8.0%
	1975	24.1%	59.8%	16.0%
Florence	1970	96.8%	0.1%	2.9%
	1975	73.3%	19.4%	7.1%
Franklin	1970	98.3%	1.0%	0.5%
	1975	75.2%	22.0%	2.1%
Gaston	1970	96.9%	0.0%	2.9%
	1975	76.7%	16.4%	6.0%
Greiner	1970	85.6%	0.3%	13.5%
	1975	50.7%	12.3%	35.3%
Hill	1970	98.1%	0.0%	1.6%
	1975	83.2%	12.3%	3.5%
Hood	1970	96.9%	0.0%	3.1%
	1975	66.0%	28.4%	4.3%
Hulcy	1970	92.4%	0.2%	6.9%
	1975	16.2%	79.6%	3.9%
Long	1970	85.4%	5.2%	8.9%
	1975	63.2%	17.3%	19.0%
Marsh	1970	97.9%	0.6%	1.2%
	1975	84.6%	12.2%	2.4%
Rusk	1970	45.9%	24.5%	29.4%
	1975	25.3%	21.2%	51.4%
Rylie	1970	96.5%	0.0%	3.2%
	1975	91.5%	1.5%	6.6%
Spence	1970	24.4%	35.0%	39.8%
	1975	20.6%	25.1%	53.3%
Stockard	1970	84.6%	0.0%	14.6%
	1975	60.8%	5.7%	32.1%
Walker	1970	81.2%	17.4%	1.1%
	1975	78.2%	20.5%	0.9%

44a

**Ethnic Percentages for Integrated
Dallas High Schools**

<i>School</i>	<i>Year</i>	<i>Anglo</i>	<i>Black</i>	<i>Mexican- American</i>
Bryan Adams	1970	99.2%	0.0%	0.6%
	1975	86.0%	7.6%	4.5%
Adamson	1970	73.3%	7.4%	16.8%
	1975	29.3%	48.9%	19.6%
Carter	1970	96.6%	0.0%	3.1%
	1975	30.9%	65.2%	3.8%
Hillcrest	1970	98.6%	0.5%	0.7%
	1975	82.5%	15.0%	1.2%
Jefferson	1970	92.0%	2.6%	5.2%
	1975	70.0%	19.3%	12.7%
Kimball	1970	96.6%	0.1%	2.9%
	1975	62.5%	28.6%	8.0%
No. Dallas	1970	30.0%	42.7%	28.6%
	1975	17.5%	30.8%	51.2%
Samuell	1970	97.8%	0.1%	2.1%
	1975	82.5%	12.0%	5.3%
Seagoville	1970	79.7%	15.9%	4.3%
	1975	79.9%	15.4%	4.5%
Skyline	1970	94.0%	2.3%	3.0%
	1975	60.1%	33.6%	5.9%
Spruce	1970	96.5%	0.3%	3.2%
	1975	65.1%	26.9%	7.5%
Sunset	1970	88.8%	0.0%	9.4%
	1975	57.4%	8.5%	33.0%
White	1970	98.3%	0.6%	0.9%
	1975	82.6%	14.8%	1.9%
Wilson	1970	88.8%	4.3%	6.5%
	1975	62.6%	19.9%	15.9%

45a

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS 75242**

W. M. TAYLOR, JR.
Chief Judge

March 15, 1976

TO COUNSEL:

Re: Tasby vs. Estes
CA 3-4211-C

Ladies and Gentlemen:

I enclose herewith Supplemental Order this day entered in the above case. You are advised that the last line of this Order referring to the desegregation plan for the DISD contemplates that the student assignment and non-student assignment aspects will be embodied in the Court's *Final Order*.

Yours very truly,
/s/ W. M. TAYLOR, JR.
W. M. Taylor, Jr.

Enc.

SUPPLEMENTAL ORDER

(Number and Title Omitted)

Filed: Mar. 15, 1976

During the process of fleshing out the Court's order of March 10, 1975, some questions have arisen regard-

ing the Court's adoption of the Dallas Alliance's plan. So that there is no misunderstanding in this regard, the Court intended by the order of March 10 to adopt the concepts suggested by the plan of the Educational Task Force of the Dallas Alliance. The staff of the school district shall take these concepts and adapt them to fit the characteristics of the Dallas Independent School District. The Court recognizes that during this process, a certain amount of flexibility is necessary. The Court expects the school district to put into effect the concepts of the Dallas Alliance plan. The specifics of the desegregation plan for the DISD will be embodied in the Court's Final Order which will be entered in approximately two weeks.

/s/ W. M. TAYLOR, JR.
UNITED STATES DISTRICT
JUDGE

SUPPLEMENTAL OPINION AND ORDER

(Number and Title Omitted)

Filed: Apr. 7, 1976

The Court has before it two motions to alter or amend its March 10, 1976, opinion and order, submitted by the Defendant DISD and by the Plaintiffs. The Court also has before it comments of the Brinegar and Strom intervenors regarding the student assign-

ment plan submitted by the DISD on March 24, 1976. The Court will not address the comments of these intervenors in this supplemental opinion, as they are dealt with in the Final Order entered this date in this case. The Court does feel it necessary, however, to respond to the motions of the initial parties to this proceeding.

A. The DISD's Motion

The DISD asks the Court to do two things: 1) approve all aspects of the approach, guidelines, standards, and interpretations made by the Defendants as to the student assignment plan prepared and filed by the DISD on March 24, 1976, and 2) accept the student assignment plan as being in compliance with the Court's opinion and order of March 10, 1976.

As to the first request, the Court is unable to approve the DISD's student assignment plan in toto. The Court has received and thoroughly considered suggestions made by various intervenors and by the Amicus Curiae Educational Task Force of the Dallas Alliance subsequent to the submission of the DISD's student assignment plan on March 24. The Court is of the opinion that many of these suggestions have merit and should be reflected in the student assignment plan. The Court has thus modified the document submitted by the DISD to incorporate many of these suggestions. It has further incorporated modifications to the student assignment plan which the Court deems necessary in order that the spirit of the Dallas Alliance's plan will be implemented to the fullest extent possible. These changes appear in the Final Order entered this day.

Through its second request the DISD asks essentially that the Court omit from the desegregation plan for the DISD any reference to non-student assignment matters, including course offerings, personnel, facilities and provisions for accountability. The Court will not hesitate to say that it taxes the Court's patience to have this objection raised again, after it was overruled time after time during the hearings, and after the Court specifically adopted the concepts embodied in the Dallas Alliance's plan regarding these matters on March 10. If the Court's response to this objection has not yet registered in the minds of the Defendants, it is this: a student assignment plan can not operate in a vacuum, and a unitary school system can not be achieved solely by mixing bodies. This Court is bound by the Constitution and by the body of caselaw in this field to see that the DISD provides *equal educational opportunity* for all its students, and the Court must necessarily be concerned about areas other than student assignment when it carries out this duty.

It is to be recalled that the Court's 1971 Order contained directives other than a bare-bones student assignment plan. In 1971, this Court had occasion to comment on the fact that the Fifth Circuit Court had found it necessary to enter specific non-student assignment orders to meet the many schemes and devices that school boards practiced in order to evade their constitutional obligation to provide equal educational opportunity. Among these, of course, were orders providing for desegregation of faculty and staff, site-selection, transportation provided to students, and course offerings. To indicate the extent

to which Courts have found it necessary to go to insure equal education, the Court would point out that in Boston the Court found it necessary to appoint a receiver to take over the operation of a school.

So that there can be no mistake about this matter the Court will state once again: it has no interest in "running the school district" or in playing the role of dictator to the School Board or Dr. Estes and his staff. However, the Court will not stand aside where the DISD has been found to operate a dual school system which discriminates between Anglo and minority schools, as was found in 1971 and as was re-emphasized in the disparity shown in Dr. Chase's report and other evidence introduced during the recent hearings. The DISD must provide equal educational opportunity for all its students, in non-student assignment matters as well as in the area of student assignment.

The DISD's motion to alter or amend the Court's Opinion and Order of March 10 is therefore in all respects denied.

B. *The Plaintiffs' Motion.*

In its motion, the Plaintiffs ask the Court to amend or clarify its March 10 opinion in three areas: 1) its finding regarding the Chase Report of a Study of Instruction in the DISD 1974-75, 2) its finding regarding K-3 children and their ability to be transported for desegregation purposes, and 3) its finding regarding the good faith of the DISD after 1971.

With regard to the first item, the Court is quite aware that one of the central findings of the Chase Report was that a disparity remains between the predominantly Anglo centers and the predominantly minority centers in the areas of (a) facilities, (b) staffing patterns, and (c) educational offerings. The Court adopted these findings of Dr. Chase on page 9 of its Opinion when it said "... there is still a gap between intent to provide equal educational opportunity and the achievement of this goal."

The Court is of the opinion that the DISD can and must correct these disparities — that is what "providing equal educational opportunity" is all about. The Court believes that the plan entered this date offers the greatest promise for actually insuring that no child in the DISD is discriminated against in the type of education he receives.

With regard to the second item, the Court will make clear that there were a number of factors that influenced the Court to adopt the K-3 Early Childhood Education concept using the diagnostic-prescriptive approach to early education. The primary reason for adopting this approach is that the Court is convinced that parental involvement and individualized instruction is invaluable at this age. The question of a child's maturity and ability to cope with being transported will of course vary with each child, and educators' opinions vary as to what is a "reasonable" age to begin transportation of children. Indeed, several educators, including Dr. Hall, testified that children could be transported as early as the first or second grade without any detrimental effect. The Court is of the

opinion however, that due to the educational benefits inherent in the early Childhood Education program, children in grades K-3 will be best served by having the parental and community involvement which is made possible by remaining in neighborhood schools.

Plaintiffs' third request deals with the finding by the Court that the DISD acted in good faith after 1971. By that finding the Court showed its awareness of some of the efforts of the DISD to provide better educational opportunities for students in predominantly minority schools. As Dr. Chase pointed out, some of the best schools in this school system are in predominantly minority areas. This is not to say, however, that the DISD has accomplished everything that it could have accomplished had it vigorously implemented the "Confluence of Cultures" program. Nor is this to say that disparity does not now exist between some schools. And, in the light of recent actions of the School Board which appear to seek the dilution of the expressed intention of the Court regarding equal educational opportunity, one wonders whether the establishment of a unitary school system and the provision of equal educational opportunity is in fact being pursued in good faith.

The conduct of the School Board members and the DISD administration in the months and years to come will answer that question. This Court sincerely hopes that every member of this community will have no hesitation in saying that the DISD has implemented this Order to the fullest extent and has done so in utmost good faith.

The final Order this day entered answers some of Plaintiffs' suggestions regarding the plan to be implemented, and this Supplemental Opinion and Order is intended as a clarification, where deemed necessary of the Court's March 10 Opinion and Order.

C. Conclusion.

The Court believes that unique opportunity is available to the DISD to desegregate without undue disruption and at the same time to provide a model of quality education for all. It is time for all parties to cast a statesman-like eye on the future of Dallas in light of the reality of the requirement to desegregate. The success of a desegregation plan, like the future of a city, is in many respects a self-fulfilling prophecy. It is time for all parties to look past the political expediency of the present to the hope of the future for Dallas and to prophesy idealistically. The Court strongly believes that the citizens of Dallas will join hands in the joint pursuit of our common ideal — the provision of an unsurpassed educational opportunity for all the children of Dallas.

It is so ORDERED, this, the 7th day of April, 1976.

/s/ W. M. TAYLOR, JR.
United States District
Judge

FINAL ORDER

(Number and Title Omitted)

Filed: Apr. 7, 1976

On March 10, 1976, after hearing evidence and arguments of counsel, the Court entered an Opinion and Order adopting the concepts embodied in the desegregation plan of the Educational Task Force of the Dallas Alliance. In order to carry out these concepts, the School Board of the Dallas Independent School District (DISD) is ORDERED and DIRECTED to implement the following items:

I. Major Sub-Districts

The DISD shall utilize six sub-districts for student assignment purposes with each having approximately the racial makeup plus or minus 5 percent of the DISD as a whole, with the exception of East Oak Cliff (referred to previously as South Oak Cliff) and Seagoville.

The boundaries for the six areas are as follows:

1. Northwest Sub-District — The boundary is the Dallas-Fort Worth Toll Road commencing at the western boundary of the DISD and extending east to Hampton Road; Hampton Road north to Singleton; Singleton east to Vilbig; Vilbig north to Morris; Morris east to Sylvan; Sylvan north to the Trinity River; the

Trinity River north to the Texas & Pacific Railroad; east on the Texas & Pacific Railroad and Pacific Street to Pearl Expressway; south on Pearl Expressway to Commerce Street; east on Commerce Street to the Santa Fe Railroad; south on the Santa Fe Railroad to Central Expressway; northwest on Central Expressway to Live Oak; northeast on Live Oak to Haskell; southeast on Haskell to Swiss; northeast on Swiss to Beacon; northwest on Beacon to Lindell; west on Lindell to Hubert; north on Hubert to Lewis; west on Lewis to Greenville; north on Greenville to Miller; west on Miller to McMillan; north on McMillan to the alley between Morningside and McCommas; west on the alley between Morningside and McCommas to Central Expressway; north on Central Expressway to Lovers Lane; east on Lovers Lane to Skillman; south on Skillman to the Missouri-Kansas-Texas Railroad; east on the Missouri-Kansas-Texas Railroad to Abrams Road; south on Abrams Road to Mockingbird Lane; northeast on Mockingbird Lane to Whiterock Creek.

2. Northeast Sub-District — The western boundary of the northeast sub-district is the same as the eastern boundary of the northwest sub-district. The southern boundary is the Trinity River from the Dallas-Fort Worth Toll Road southeast on the Trinity River to the Central Expressway (U.S. 75); north on Central Expressway to Harding; northeast on Harding to Brigham; southeast on Brigham to spur

railroad; east on spur railroad to Rosine; northwest on Rosine to Pine; northeast on Pine to Electra; northwest on Electra to Rutledge; northeast on Rutledge to Scyene; east on Scyene to Spring; northeast on Spring to Cross; northwest on Cross to Fitzhugh; northeast on Fitzhugh to Seattle; northwest on Seattle to Birmingham; northeast on Birmingham to Texas & Pacific Railroad; southeast on Texas & Pacific Railroad to Foreman; southwest on Foreman (extended) to Scyene; east on Scyene to Buckner; north on Buckner to Military Parkway; east on Military Parkway to eastern boundary of DISD.

3. Southeast Sub-District — The northern boundary of the southeast sub-district is the same as the southern boundary of the northeast sub-district. The western boundary beginning at Central Expressway and the Trinity River; southeast along the Trinity River to the northern boundary of the Seagoville area; eastward along the northern boundary of the Seagoville area to the DISD boundary.

4. East Oak Cliff Sub-District — The eastern boundary of the East Oak Cliff sub-district begins at the District line and the Trinity River and extends northwesterly along the Trinity River to Interstate 35; Interstate 35 south to DISD boundary.

5. Southwest Sub-District — The eastern boundary of the southwest sub-district is the

same as the western boundary of the East Oak Cliff sub-district and the northern boundary is the same as the southern boundary of the northwest sub-district.

6. Seagoville Sub-District — The northern boundary of the Seagoville area is Jordan and Alexander Roads extended to the District boundary.

II. *Student Assignment Criteria Within Sub-Districts*

The following criteria shall be used to incorporate the concepts embodied in the Court's Opinion and Order of March 10, 1976:

1. The DISD is divided into six sub-districts, reflecting generally the Northwest, Northeast, Southeast, East Oak Cliff, Southwest, and Seagoville geographical sections of the District.

2. With the exception of East Oak Cliff and Seagoville, the Anglo combined minority ratio of the DISD is approximated in each sub-district plus or minus five percent.

3. Grade level configurations are standardized throughout the district to include grade K-3 Early Childhood Education Centers, grade 4-6 Intermediate Schools, grade 7-8 Middle Schools, and grade 9-12 High Schools. Certain buildings house K-3 Early Childhood Education Centers and 4-6 Intermediate Schools.

4. Where possible, present student assignments are retained in naturally integrated areas, but grade configurations are standardized.

5. Students are assigned to school buildings appropriate to their age and number and to program needs, with relocatable buildings being used where necessary.

6. Students in kindergarten and grades 1-3 are assigned according to present elementary assignment patterns except that K-3 students in Booker T. Washington have been assigned to Wm. B. Travis, and K-3 students in Stephen F. Austin have been assigned to David Crockett. If there is no school within two miles, students are assigned to the next nearest appropriate school.

7. Generally students in grades 4-8 are assigned to centers in areas of centrality. A less central location is used where the location will meet the ethnic makeup of the sub-district or where facilities requirements prohibit a more central location.

8. Transportation distance and time are minimized to the extent possible.

9. Voluntary enrollment, District-wide, is provided in Vanguard schools for grades 4-6, in Academies for grades 7-8, and in magnet schools for grades 9-12.

10. Attention is focused on Vanguard and Academy programming available in the East Oak Cliff sub-district on the 4-8 level.

11. For students in grades 9-12 who do not desire to attend a comprehensive magnet high school or participate in one of the transfer programs, the traditional high school in their regular attendance zone will constitute their assigned school.

Appendix A, attached hereto, provides student assignments for the 1976-1977 school year, together with figures and percentages.

III. *The K-3 Early Childhood Education Centers*

The DISD shall provide a comprehensive program of instruction in all areas based on the developmental needs of young children and the District's Baseline Curriculum Program. The K-3 approach shall be primarily diagnostic-prescriptive. The approach in the DISD Baseline Curriculum implementation shall include:

1. Individualization of instruction.
2. Principal and staff planning for implementing the DISD Baseline Curriculum Program in each school, in conjunction with parent advisory committees at each school site.

3. Reduction of the adult-pupil ratio from the existing district-wide ratio through tutoring, the use of parents, other adult volunteers, older students and the addition of paraprofessionals. The adult-student ratio of 1-10 shall be the goal to be achieved as rapidly as possible.

4. Continuation of a Staff Development Program consistent with the State Board of Education Plan and conducted to implement the DISD Baseline Curriculum, to meet early childhood education needs and to further the individualization of instruction. This training shall involve parents in participating roles.

5. Effective partnerships with community groups, business and other agencies which serve young children.

6. Efforts to maximize the involvement of parents in planning, reinforcing and complementing their children's learning.

7. Use of the local Early Childhood Education Center as the administrative unit which has primary responsibility for delivering quality learning experiences.

In order to further develop, refine and extend the District's program for early childhood education, the DISD will establish in 1976-1977 at least two exemplary development and demonstration classes for children in the East Oak Cliff sub-district. The DISD shall continue

to develop prototypic enrichment programs, such as those at the Paul L. Dunbar and the William B. Travis Centers, for K-3 students.

Booker T. Washington School, scheduled for possible use as a Math-Science Magnet, shall be closed as an elementary K-6 school and its K-3 students reassigned to the Wm. B. Travis School. Stephen F. Austin School, scheduled for possible use as a Medical Professions Magnet, shall be closed as an elementary K-6 school and its K-3 students reassigned to the David Crockett School.

In order to give priority to all schools in East Oak Cliff on the K-3 level, R. L. Thornton and T. L. Marsalis Centers shall not be used in reporting or computing the comparability report which is required by ESEA, Title I, of the United States Department of Health, Education and Welfare, Office of Education, during 1976-77, 1977-78, and 1978-79.

IV. *The 4-8 Intermediate and Middle School Centers*

The DISD shall establish intermediate school centers (4-6) and middle school centers (7-8). The instructional program in these 4-6 and 7-8 centers shall follow the DISD's Baseline Curriculum. Each principal and his staff shall develop, in conjunction with parent advisory committees in his school, plans for the implementation of this Baseline Curriculum in his school.

The DISD shall establish 4-6 Vanguard schools and 7-8 Academies as needs are identified with first priority in the East Oak Cliff area.

The 4-6 Vanguard schools shall include all students presently enrolled. For those student stations which remain, District-wide racial ratios plus or minus 10% should apply with first priority to the ethnic group(s) who are not presently represented in the school by District-wide ratio. These students may apply from anywhere in the District.

Beginning with 1976-77 the DISD shall establish 4-6 Vanguard schools at Maynard Jackson, Mark Twain, Sidney Lanier, and K. B. Polk.

The 7-8 Academies shall reserve student stations for District-wide attendance as follows: The number of Black, Mexican-American and Anglo students in each Academy shall equal the total student capacity of that school times the ratio of each group of students in the 7-8 student population in the Dallas Independent School District as of December 1, 1975, plus or minus 10 percent. Student stations shall be reserved for all groups.

For an Academy which is an add-on to a present school such as Oliver W. Holmes, the program shall operate as a "school within a

school." Students presently enrolled at Holmes shall apply in the same manner as students in other district schools. The "school within a school" shall not as such have a particular attendance zone. All 7-8 Academies shall have a District-wide attendance zone. Beginning with 1976-77 the DISD shall establish 7-8 Academies at Pearl C. Anderson, Sequoyah and Oliver Wendell Holmes.

In order to implement the Court's Order regarding 4-6 Vanguard schools and 7-8 Academies, these centers shall not be used in reporting or computing the comparability report which is required by ESEA, Title I, of the United States Department of Health, Education and Welfare, Office of Education, during 1976-77, 1977-78, 1978-79.

V. 9-12 Magnets and High Schools

The District shall establish at least four new senior high magnets in 1976 and at least three additional by 1979, as designated by DISD. The DISD shall continue its comprehensive program at existing high school sites, as well as career clusters at Skyline Career Development Center, Pinkston, Adamson, and other Career Development Centers. The new magnet schools may be selected from the following as examples:

1. A Math/Science Magnet at Booker T. Washington

2. A Child-Related Careers Magnet at City Park Elementary
3. A Health Professions Magnet utilizing Baylor Hospital facilities and Stephen F. Austin facilities
4. A Creative Arts Magnet utilizing Fair Park facilities and James Madison facilities
5. A Business and Management Academy utilizing facilities in the Central Business District and Crozier Technical High School facilities
6. A Language-Linguistic and Humanities Magnet in cooperation with the El Centro campus of the Dallas County Community College District
7. A Transportation Technology Institute utilizing former automobile sales and service facilities where available in the downtown area
8. A Comprehensive Aerospace and Transportation Magnet at Love Field.

Final decisions regarding these magnet programs shall be made by DISD after consultation with the Career Advisory Committee or other appropriate committee established by the Dallas Chamber of Commerce. The DISD has the right to make adjustments in the future in programs and building locations, subject to the requirements regarding new construction in Paragraph XIII.

The 9-12 Magnet High School programs shall be available on a voluntary basis on a full-time or part-time transfer basis for three years beginning 1976-77. Beginning 1979-80 the DISD shall require full-time attendance in comprehensive High Schools associated with any Magnet program. This shall apply to all 9-12 Magnet programs including those at Skyline. Students may transfer freely from district high schools on a term by term basis.

Any student who enters the 9-12 Magnet programs during this three year period may, if he/she desires, continue on a part-time basis until graduation.

Much of the academic work associated with a high school diploma may of necessity be offered at a central location until an adequate number of full-time students have enrolled (estimated 400) to make an academic program cost effective.

The number of Black, Mexican-American and Anglo students in each Magnet comprehensive High School shall equal the total student capacity of that school times the ratio of each group of students in the 9-12 student population in the Dallas Independent School District as of December 1, 1975, plus or minus ten percent. Student stations shall be reserved for all groups.

The Skyline, Adamson, and Pinkston High Schools shall continue to operate as com-

prehensive high schools with regular attendance zones.

As a policy these Magnet High Schools of superior quality should be opened as rapidly as they fill, so as to accommodate all students who wish to enter the Magnet High School system. In other words, the seven called for above by 1979-80 are a minimum.

When new campuses and facilities are developed, as provided in Paragraph XIII, provision shall be made for a comprehensive High School program including all extracurricula activities. In addition Interscholastic League rules shall be provided so as to enable pupils attending Magnet High Schools to participate fully in Interscholastic League activities.

Tenth and eleventh grade students enrolled in any high school during 1975-76 within the Dallas Independent School District may, in 1976-77 and 1977-78, choose to continue to attend that high school until graduation. If students were transported by the district in 1975-76, transportation will be continued for these two years.

Students presently in grades 10-11 and their parents must be informed in writing about their program and school options prior to the end of the 1975-76 school year. This informa-

tion shall provide as a minimum the following options:

- A. That a student may continue in the school he or she is presently attending, or
- B. That a student may attend the Magnet school of his or her choice, or
- C. That a student may elect to transfer under the Majority to Minority provisions, or
- D. That a student may attend school designated as his or her regular attendance zone.

If, after the 1976-77 school year, an area high school is designated as a magnet comprehensive high school, students enrolled in that school may choose to attend any school in the DISD. An exception is that the student may not select a high school which is already integrated such that it upsets the racial balance of that school as hereinabove provided in Paragraph H. The school the student selects becomes his/her assigned high school.

In order to implement this Court's order regarding 9-12 Magnet schools, these centers shall not be used in reporting or computing the comparability report which is required by ESEA, Title I, of the United States Department of Health, Education and Welfare, Office of Education during 1976-77, 1977-78, 1978-79.

VI. *Special Programs*

A. *Career Education*

The DISD shall continue to implement its career education plan, Grades 1-12, as rapidly as possible.

B. *Bilingual Education*

1. The present Bilingual Program based on the State Board of Education Plan shall be expanded as rapidly as possible to all pupils in grades K-6. State Senate Bill 121 shall serve as reference-guideline for this program's vertical (grade level) and horizontal (school site) expansion.

2. English-as-a-Second Language (ESL) programming shall be expanded as rapidly as possible to serve all Spanish-monolingual students, especially in grades 7-8 and 9-12.

C. *Multicultural Social Studies Education*

The DISD shall provide multicultural social studies educational programs for students in all grade levels.

D. *Plan A Program*

1. The Plan A Program now being provided by the DISD shall be administered according

to the State Board of Education Plan and Guidelines.

2. Students who require special instructional techniques and arrangements by reason of handicapping conditions shall be served by the DISD's special educational program, consistent with the State Board of Education Plan and Guidelines.

VII. *Majority to Minority Transfer*

The DISD shall fully advise all students of this program and encourage participation in it.

1. Prior to the beginning of each school year the District will determine for that particular school year the estimated racial composition of:

- (a) its total K-3 Early Childhood Education Center scholastic population,
- (b) its total 4-6 Intermediate School Center scholastic population,
- (c) its total Middle School Center scholastic population,
- (d) its total Senior High School scholastic population,

by percentages between Black, Mexican-American, and Anglo scholastics.

2. The terms "attendance Early Childhood Education Center," "attendance Intermediate School," "attendance Middle School," and "attendance Senior High School," as used herein shall mean the particular school to which the student would normally be assigned by the District in the absence of the operation of a special assignment program, permission, an order or a regulation, including, but not limited to, the majority to minority transfer provisions.

3. Any student assigned to a particular attendance K-3 Early Childhood Education Center serving kindergarten through third grade in which the percentage of members of his race is greater than the District-wide percentage of members of his race for Early Childhood Education Centers shall be permitted to transfer to any Early Childhood Education Center school in the School District containing his grade level in which the percentage of members of his race is less than the District-wide percentage of his race for Early Childhood Education Centers.

4. Any student assigned to a particular attendance Intermediate School serving fourth, fifth, and sixth grades in which the percentage of members of his race is greater than the District-wide percentage of members of his race for Intermediate Schools shall be permitted to transfer to any Intermediate School in the District containing his grade

level in which the percentage of members of his race is less than the District-wide percentage of members of his race for Intermediate Schools.

5. Any student assigned to a particular attendance Middle School serving seventh and eighth grades in which the percentage of members of his race is greater than the District-wide percentage of members of his race for Middle Schools shall be permitted to transfer to any Middle School in the District containing his grade level in which the percentage of members of his race is less than the District-wide percentage of members of his race for Middle Schools.

6. Any student assigned to a particular attendance Senior High School in which the percentage of members of his race is greater than the District-wide percentage of members of his race for Senior High Schools shall be permitted to transfer to any Senior High School in the District containing his grade level in which the percentage of members of his race is less than the District-wide percentage of members of his race for Senior High Schools.

7. Students requesting Majority to Minority Transfers must do so prior to one week before the beginning of the school year, and must agree to attend that school for the entire academic school year.

8. All transfers provided for in this section shall be permitted on the basis of student-station availability, and Majority to Minority Transfers will be given preference over other transfers.

9. A student's disciplinary record shall not constitute the basis for denying a Majority to Minority Transfer, nor for sending him/her back to a previously assigned school once this transfer has been made. Any discipline program shall be handled at the school to which a student has transferred.

VIII. *Minority to Majority Transfers*

Mexican-Americans who comprise less than five percent of the school to which they are originally assigned, may transfer to a school that offers the Bilingual Education Program. Transfers provided in this section shall be permitted on the basis of student-station availability.

IX. *Curriculum Transfers*

Students who are physically handicapped, mentally retarded, highly gifted, those who seek career education courses, and other special-course students, shall be permitted to attend those schools offering appropriate facilities and courses; provided that all such transfers shall be on a nondiscriminatory basis. Such transfers shall be permitted on a

space available basis with final decisions to be made by the DISD.

X. Transportation

1. All students in the Dallas Independent School District who are reassigned to a new attendance zone or who choose to attend a magnet school as their assigned school by virtue of this Court Order, shall be eligible to receive free transportation provided by the Dallas Independent School District.

2. Where at least twenty students from a given community, zone, or point of origin will be traveling to a single destination, for any reason permitted under this Order, the DISD shall provide transportation in the form of a DISD bus.

3. Where the number of students moving to a given designated school is less than twenty, transportation shall be provided in the form of special bus tokens or bus cards distributed directly to the student involved to be used on the regular Dallas Transit System (DTS) routes.

4. When the combined one-way distance between home to DTS-route and DTS-route to school exceeds 2 miles, special arrangements for transportation shall be made by DISD.

5. For those students who are transported under any of the provisions of this Court order, in the event of emergencies or illness, the school shall either arrange transportation to home or make other appropriate accommodations as deemed necessary by the school.

6. The District shall receive from the Texas Education Agency the maximum total base cost for maintenance, operations, salaries, and depreciation for each seventy-two passenger bus needed to transport students, as required by this Court order.

XI. Changes in Attendance Zones

The DISD may adjust attendance zones and reassign students as it determines to be necessary to conform to building space requirements from year to year so as to most effectively utilize facilities and/or promote further desegregation. For the 1976-1977 school year, adjustments will occur between the following attendance zones:

1. Lenore K. Hall and Leslie A. Stemmons
2. Harrell Budd and Roger Q. Mills
3. David Crockett and William Lipscomb
4. William Lipscomb and Robert E. Lee.

The DISD shall have the responsibility for informing all residents of these areas of these adjustments.

Before the beginning of the 1977-78 school year, the DISD shall review all K-3 attendance zones, and adjust them in order to achieve as much natural integration as possible, with pupils assigned two miles or less from their home. If there is no school within two miles of their home, then assign student to nearest school which would promote integration, if in so doing, the student would have to go no more than four miles from home. Dr. Josiah Hall, the Court's expert, shall be retained to advise the Court on these changes.

Demographic changes which occur subsequent to this total review and readjustment of K-3 attendance zones will not be attributed by the Court to "state action" of the DISD. Private actions which produce changes in housing patterns after 1977-78 shall not be the basis for mandating the DISD to redraw the K-3 attendance zones to reflect any particular racial balance.

XII. *Discipline and Due Process*

Good order and discipline are essential to good education and to the implementation of this plan. The DISD, in concert with teachers, principals and parents shall develop a clear and simply-stated policy on student discipline, including provision for due process procedures. All parents and students shall be fully advised by the DISD of these rules and regulations governing student conduct in the

classroom, in the school, and on the campus. These rules, regulations, and due process procedures shall be applied uniformly and fairly without discrimination.

XIII. *Facilities*

The DISD shall continue to improve school facilities in accordance with the plan which the Board of Education has developed in consultation with the Task Force for Educational Excellence.

In addition, the DISD shall take immediate steps to construct a new magnet comprehensive Lincoln High School in South Dallas.

The DISD shall make improvements in the facilities at North Dallas.

The DISD shall begin immediate construction of a new K-3 facility and community center in West Dallas for the Juarez-Douglass area. Benito Juarez and Fred Douglass shall remain open to serve grades K-2 and K-3 respectively until the new school is opened.

The DISD shall have as a priority the development of a "central core" of high schools within a two mile distance from the inner highway loop (Central Expressway on the east, East Thornton Expressway on the south, Stemmons Expressway on the west, Woodall Rogers Freeway on the north).

XIV. Personnel

A. Recruiting and Employment

1. The DISD shall develop recruiting and employment policies to insure that competent personnel are employed and that by 1979-1980 the percentages of Black and Mexican-American personnel approximate the percentages, as a minimum, of 31% Black and 8% Mexican-American within each of the following groups:

- a. teachers
- b. principals
- c. other certificated professional personnel (excluding the 142 top salaried administrators mentioned below).

2. For the top salaried administrative positions of coordinator and above (currently established at 142 in number) and for any future reorganization covering these 142 top positions, the following ethnic percentages for these positions are to be achieved by September 1, 1979: 44% Anglo, 44% Black, and 12% Mexican-American. The DISD shall achieve one-third of this transition by September 1, 1977, one-third by September 1, 1978, and the final one-third by September 1, 1979. A variance of 5% in the percentages for this top-salaried group shall be permitted. At all times after September 1, 1979, the

Anglo/Black percentages are to remain equal. However, both will decrease if the percentage of the Mexican-American enrollment in the DISD increases above 12%. (For example, if the Mexican-American enrollment increases to 14%, Anglo and Black would each decrease to 43%.)

3. The DISD may rely on expanded scope of positions, lateral reassignments, promotion and attrition to meet the goals of the above two paragraphs. If there is to be a reduction in the number of principals, teachers, teachers aids, or other staff employed by the DISD which will result in a dismissal or demotion of any such staff member, the staff member to be dismissed or demoted must be selected on the basis of objective and reasonable non-discriminatory standards from among all the staff of the school district. Under no circumstances will staff be terminated or promoted solely on the basis of race.

B. Personnel Competence Assessment

The competence of personnel shall continually be assessed in accordance with policies and procedures established by the DISD.

C. Teacher and Principal Assignments

Assignments for teachers and principals shall be made in accordance with *Singleton v. Jackson Municipal Separate School District*,

419 F.2d 1211 (5th Cir. 1970). However, if the needs assessment of a given school clearly demonstrates that special circumstances exist and that deviations from the above requirements are necessary in order to best staff and administer the programs in predominately minority schools on such programs as special, vocational and bilingual education, in any school, the DISD shall have the discretion to assign minority teachers to these schools at variance with the respective percentages established by *Singleton*.

D. Training

In depth training of teachers, principals and administrators shall be provided as needed to implement this plan. Attendance shall be required.

XV. Accountability System and Auditor

A. Internal Accountability

The DISD shall file a report with the Court on December 15 and April 15 annually through the school year 1978-79 which includes the following:

1. The number and percentage of pupils by ethnicity attending each educational center, including Vanguard schools, Academies and Magnet high schools

2. The number and percentage of pupils by ethnicity being transported for desegregation purposes to 4-6 and 7-8 centers and to Vanguard schools, Academies and Magnet high schools

3. Majority to Minority transfers:

- a. The number and percentage of pupils by ethnicity and by school participating in this program
- b. The transportation facilities available and convenience of transportation
- c. Efforts made by the DISD to increase participation in this program.

4. The number and percentage of Mexican-American pupils participating in the minority to majority transfer program.

5. The status of the following programs:

- a. The Early Childhood Education Program (K-3)
- b. 4-8 Vanguard and Academy Programs
- c. 9-12 Magnet Programs
 - (1) Efforts of the DISD to encourage student enrollment in magnet programs

80a

- (2) Course offerings in each of the magnet programs in operation
 - (3) The progress of increasing the number of magnet schools and their location in terms of the timetable set forth in this order.
 - d. The Bilingual Program
 - e. The Multicultural Social Studies Program
6. The number and percentage of teachers by ethnicity assigned full time in each educational center, including Vanguard schools, Academies and Magnet schools.
7. The progress toward affirmative action in attaining the recruiting and employment goal, including the number and percentage of new teachers and administrators by ethnicity engaged by the DISD.
8. The current status of capital outlay projects, and the allocation of bond issue funds in relation to the priorities and programs established by this order.
9. The results of the annual standardized achievement tests program by school, grade (grades 2, 4, 6, 8, 9 and 12), and ethnicity.
10. Efforts made by the DISD to successfully implement the Order of this Court, in the following areas:

81a

- a. Parent involvement efforts
- b. Staff development programs
- c. Communications and community relations programs
- d. Student leadership training programs
- e. Safety and security (including due process procedures).

B. *External Educational Audit*

An external educational auditor shall be appointed and instructed by the Court. It shall be a non-political, professional entity, adequately funded, and paid for by the DISD. It shall file a report with the Court annually on June 1 until the 1978-79 school year which includes the following:

- 1. An audit of each item of the internal accountability report
- 2. An audit of DISD treatment of a selected sampling of predominantly minority and predominantly Anglo centers (K-3 and 9-12 non-magnet centers) in terms of:
 - a. Condition of facilities
 - b. Educational offerings: course offerings and teacher allocation
 - c. Educational resource allocation in terms of textbooks, libraries, sup-

- plies, tutoring efforts and aids, and extracurricular offerings funded by the DISD
- d. Efforts of the DISD to implement schoolsite planning involving principals, teachers, parents and community in ECE program
 - e. Efforts to encourage parent and community participation in the educational process on the 9-12 level.
 - f. Any other items about which the Court may instruct it.

The results of this external educational audit shall be publicized in the DISD newsletter and the complete audit shall be made available to the public and to all parents or guardians of students in the DISD. Any party to this suit who desires to make comments or be heard regarding the content of the internal accountability reports or the external educational audit may file such comments or motion within thirty days after the filing of the external educational auditor's report on June 1.

XVI. *Tri-Ethnic Committee*

The Tri-Ethnic Committee provided for in the Court's 1971 Order shall continue to receive input from the community regarding the desegregation of the DISD. The Committee shall make reports to this Court at such times as the Committee deems necessary. These

reports will advise the Court as to the implementation of this Order, and such other matters as the Court may deem to be proper. A copy of all reports shall be provided to the DISD and the Plaintiffs.

Tri-Ethnic Committee members shall be appointed by the Court for staggered two-year terms beginning July 1, 1976. Lots shall be drawn to determine which members will serve for a one-year term beginning July 1, 1976, and which members will serve for a two-year term beginning July 1, 1976.

XVII. *Retention of Jurisdiction*

To the end that a unitary school shall be achieved in the DISD, the United States District Court for the Northern District of Texas retains jurisdiction of this case.

It is so ORDERED, this the 7th day of April, 1976.

/s/ W. M. TAYLOR, JR.
UNITED STATES DISTRICT
JUDGE

APPENDIX A

The pupil population for the six areas, grades K-12 by ethnic group utilizing the December 1, 1975 pupil population figures is as follows:

Sub-districts	Anglo		Black		M/A		Combined Min. %	Total
	No.	%	No.	%	No.	%		
Southwest	12,250	46.0	8,234	30.9	6,169	23.1	54.0	26,653
Northwest	16,590	48.9	10,031	29.6	7,298	21.5	51.1	33,919
Northeast	16,019	54.7	10,411	35.5	2,865	9.8	44.3	29,295
Southeast	12,253	57.1	7,551	35.2	1,666	7.7	42.9	21,470
Sub-Total	57,112	51.3	36,227	32.5	17,998	16.2	48.7	111,337
East Oak Cliff	512	1.9	26,202	35.3	783	2.8	98.1	27,497
Seagoville	1,842	80.5	338	14.8	108	4.7	19.5	2,288
GRAND TOTAL	59,466	42.1	62,767	44.5	18,889	13.4	57.9	141,122

84a

NORTHWEST SUB-DISTRICT NORTHWEST

K-3

School	Anglo		Black		M-A		Minority %	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
Nathan Adams	177	90.8	16	8.2	2	1.0	9.2	195	800
Gabe P. Allen	69	9.2	32	4.3	647	86.5	90.8	748	1000
Arlington Park	2	1.9	99	95.2	3	2.9	98.1	104	350
James B. Bonham	72	20.1	3	.8	284	79.1	79.9	359	400
C. F. Carr	3	.6	498	96.1	17	3.3	99.4	518	800
George W. Carver	1	.3	330	91.4	30	8.3	99.7	361	1700
George B. Dealey	145	92.9	9	5.8	2	1.3	7.1	156	800
Amelia Earhart	0	-0-	372	99.7	1	.3	100.0	373	800
James Fannin	96	16.6	75	13.0	407	70.4	83.4	578	400
Tom C. Gooch	299	97.1	2	.6	7	2.3	2.9	308	800
Sam Houston	64	20.5	44	14.1	204	65.4	79.5	312	700
Arthur Kramer	133	97.8	1	.7	2	1.5	2.2	136	800
J. W. Ray	0	-0-	311	99.0	3	1.0	100.0	314	400
William B. Travis	5	1.9	95	35.0	171	83.1	98.1	271	800
Harry C. Withers	183	97.9	0	-0-	4	2.1	2.1	187	800
William L. Cabell	311	96.3	2	.6	0	3.1	3.7	323	1300
DeGolyer, E. L.	175	96.7	2	1.1	4	2.2	1.3	181	800
Navarro, Jose	0	0	619	95.5	29	4.5	100.0	648	750
Tyler, Priscilla	0	0	443	99.5	2	.5	100.0	445	750

85a

NORTHWEST

4-5-6

4-5-6

School	K-3*	Anglo		Black		M-A		Minority		Total	Bldg. Cap.
		No.	%	No.	%	No.	%	%	%		
Burnet, D. G.	495	592	52.3	432	38.1	109	9.6	47.7	1628	1350	
Caillet, F. P.	275	238	40.1	109	18.4	246	41.5	59.9	868	800	
Foster, S. C.	296	347	49.3	100	14.2	257	36.5	50.7	1000	800	
Longfellow, H. W.	112	323	46.3	326	46.7	49	7.0	53.7	810	800	
Maple Lawn	296	149	29.6	108	21.5	246	48.9	70.4	503	700	
Marcus, H.	253	197	40.1	30	6.1	264	53.8	59.9	744	800	
Pershing, J. J.	168	279	40.0	410	58.8	8	1.2	60.0	865	800	
Polk, K. B.**	189	0	0	249	100.0	0	0	100.0	438	800	
Preston Hollow	142	151	40.9	86	23.3	132	35.8	59.1	511	1000	
Rogers, D. D.	287	290	42.8	190	28.1	197	29.1	57.2	964	800	
Williams, S. L.	109	339	42.4	444	55.5	17	2.1	57.6	909	800	
Field, T.	114	58	76.3	2	2.6	16	21.1	23.7	190	500	
Knight, O.	376	89	37.2	3	1.3	147	61.5	62.8	615	650	
Milam, B.	88	20	40.0	3	6.0	27	54.0	60.0	138	800	
Hotchkiss, L. L.	173	181	42.2	30	7.0	218	50.8	57.8	602	800	
Walnut Hill	165	339	59.4	211	37.0	21	3.6	40.6	736	800	

* K-3 students are not included in the ethnic ratios for grades 4-5-6.

** K. B. Polk School will be a 4-6 Vanguard School and 300 student stations will be reserved for integration purposes. Programming will be provided from 7:00 a.m. to 7:00 p.m.

87a

NORTHWEST

Feeder Schools for 4-5-6 Centers

Burnet	Pershing
Burnet	Pershing
Cabell	Dealey
Carr	Carver/Tyler*
Caillet	Walnut Hill
Caillet	Walnut Hill
Allen, G.*	Adams, N.
Arlington Park	Carver, Tyler*
Foster	Preston Hollow
Foster	Preston Hollow
Houston	Travis (includes
Carver/Tyler*	the former B.T.
DeGolyer	Washington zone)
Longfellow	Rogers
Longfellow	Rogers
Withers	Ray
Kramer	Bonham
Earhart/Navarro*	Williams
Maple Lawn	Williams
Marcus	Gooch
Marcus	Earhart/Navarro*
Allen, G.*	Field
Hotchkiss	Knight
Hotchkiss	Milam
Fannin	Polk

* Assigned to more than one school

**NORTHWEST
Middle Schools
7-8**

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
Cary, Edward H.	521	51.8	343	34.1	142	14.1	48.2	1006	1500
Marsh, Thos. C.	776	55.5	307	22.0	314	22.5	44.5	1397	1700
Rusk, T. J.	446	55.7	103	12.8	252	31.5	44.3	801	1000
Spence, Alex*	162	23.0	170	24.1	373	52.9	77.0	705	1000
Walker, E. D.	881	51.9	794	46.8	23	1.3	48.1	1698	2000

* Children enrolled in the program for the deaf are included.

**89a
NORTHWEST**

Feeder Schools for 7-8 Grade Centers

Edward H. Cary

Alex Spence

Foster

Bonham

Burnet

Fannin

Williams

Travis (includes

Longfellow

former B.T. Wash-
ington zone)

Polk

Milam

Walnut Hill

Field

Earhart/Navarro*

E. D. Walker

Thomas C. Marsh

Adams, N.

Dealey

DeGolyer

Pershing

Cabell

Withers (East of Midway)

Allen

Carver/Tyler

Withers (West of
Midway)

Kramer

Gooch

Hotchkiss

Earhart/Navarro*

Rogers

Preston Hollow

Ray

Carr

Thomas J. Rusk

Knight

Maple Lawn

Houston

Arlington Park

Marcus

Caillet

* Assigned to more than one school

NORTHWEST

Senior High Schools

9-12

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%	%		90a
Hillcrest*	1634	96.2	38	2.2	27	1.6	3.8	1249*	1800
Thos. Jefferson	1583	68.4	465	20.1	267	11.5	21.6	2315	2100
North Dallas	280	17.2	620	38.1	728	44.7	82.8	1628	1100
L. G. Pinkston**	108	4.9	1506	68.2	594	26.9	95.1	1633**	3000
W. T. White	2585	96.1	43	1.6	61	2.3	3.9	2689	2600

- * The former Franklin school will house 450 ninth grade students from Hillcrest High School.
- ** The former Edison school will house 575 ninth grade students from L. G. Pinkston High School.

91a

NORTHWEST

Feeder Schools for Senior High Schools

Hillcrest

Dealey, G. B.
Hotchkiss, L. L.
Kramer, Arthur
Pershing, J. J.
Preston Hollow
Rogers, Dan

L. G. Pinkston

Allen, Gabe
Carr, C. F.
Carver, G. W.
Earhart, Amelia
Navarro, Jose
Tyler, P. L.

Thomas Jefferson

Burnet, David G.
Caillet, F. P.
Field, Tom
Foster, S. C.
Longfellow, H. W.
Polk, K. B.
Walnut Hill
Williams, Sudie

W. T. White

Adams, Nathan
Cabell, W. L.
DeGolyer, E. L.
Gooch, Tom C.
Marcus, Herbert
Withers, H. C.

North Dallas

Arlington Park
Bonham, J. B.
Fannin, James W.
Houston, Sam
Knight, Obadiah
Maple Lawn
Milam, Ben
Ray, J. W.
Travis, W. B. (includes
former B. T.
Washington zone)

NORTHEAST SUB-DISTRICT

NORTHEAST K-3

School	Anglo		Black		M-A		Minority		Total	Bldg. Cap.
	No.	%	No.	%	No.	%	%	%		
Brown, John H.	0	0	523	100.0	0	0	100.0	100.0	523	800
City Park	6	3.9	85	55.6	62	40.5	96.1	96.1	153	800
Colonial	0	0	434	100.0	0	0	100.0	100.0	434	900
Frazier	0	0	454	100.0	0	0	100.0	100.0	454	900
Gill	264	91.7	0	0	24	8.3	8.3	8.3	288	800
Harris	0	0	159	100.0	0	0	100.0	100.0	159	550
Hassell	0	0	229	100.0	0	0	100.0	100.0	229	550
Hexter	170	93.9	0	0	11	6.1	6.1	6.1	181	800
Rice	0	0	497	100.0	0	0	100.0	100.0	497	1100
Wheatley	0	0	202	100.0	0	0	100.0	100.0	202	400
Reilly	289	92.9	6	1.9	16	5.2	7.1	7.1	311	1250
Casa View	303	86.3	1	.3	47	13.4	13.7	13.7	351	1250
Urban Park	200	88.9	3	1.3	22	9.8	11.1	11.1	225	800
Kiest	299	89.8	5	1.5	29	8.7	10.2	10.2	333	1250

92a

NORTHEAST 4-5-6

4-5-6

School	K-3*	Anglo		Black		M-A		Minority		Total	Bldg. Cap.
		No.	%	No.	%	No.	%	No.	%		
Bayles	260	206	54.2	169	44.5	5	1.3	45.8	45.8	640	800
Conner	250	524	56.3	378	40.7	28	3.0	43.7	43.7	1180	800
Jackson, S.**	81	103	67.3	48	31.4	2	1.3	32.7	32.7	234	800
Lakewood	193	396	61.9	160	25.0	84	13.1	38.1	38.1	833	800
Mt. Auburn	287	97	38.0	89	34.9	69	27.1	62.0	62.0	542	700
Rowe, E.	313	420	53.4	330	42.0	36	4.6	46.6	46.6	1099	800
Sanger, Alex	244	385	53.8	290	40.6	40	5.6	46.2	46.2	959	800
Lee, Robt. E.	205	68	47.6	0	0	75	52.4	52.4	52.4	348	800
Lipscomb	461	175	50.1	17	4.9	157	45.0	49.9	49.9	810	800
Crockett	491	74	42.8	14	8.1	85	41.1	49.2	49.2	664	400
Silberstein	217	115	58.1	69	34.9	14	7.0	41.9	41.9	415	800
Reinhardt	295	499	58.1	315	36.7	44	5.2	41.9	41.9	1153	1250
Truett	352	446	52.9	367	43.5	30	3.6	47.1	47.1	1195	1300
Roberts	319	6	2.5	179	75.2	53	22.3	97.5	97.5	557	600

93a

- * K-3 students are not included in the ethnic ratios for grades 4-5-6.
- ** Children enrolled in the program for the deaf are included.

94a

NORTHEAST

Feeder Schools for 4-5-6 Centers

Bayles	Reinhardt
Bayles	Reinhardt
Hassell	Gill
	Colonial
Conner	Rowe
Reilly	Rowe
Brown	Urban Park
Conner	Frazier
Crockett	Sanger
	Sanger
Jackson, S.	Casa View
	Wheatley
	Harris
Lakewood	
Lakewood	Silberstein
Kiest	
City Park	
Austin	Truett
	Truett
Lee, R.	Hexter
	Rice
Lipscomb	
Roberts	Mount Auburn

95a

NORTHEAST

Middle Schools

7-8

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
W. H. Gaston	942	56.6	645	38.7	78	4.7	43.4	1665	1700
Robert T. Hill	736	61.1	410	34.0	59	4.9	38.9	1205	1400
J. L. Long	656	58.0	195	17.2	280	24.8	42.0	1131	1400

96a

NORTHEAST

Feeder Schools for 7-8 Grade Centers

W. H. Gaston

J. L. Long

Brown, J. H.

Bayles

City Park

Crockett, David

Colonial

Lakewood

Conner, S. S.

Lee, Robert E.

Hassell, T. C.

Lipscomb, W. L.

Kiest, E. J.

Jackson, Stonewall

Reinhardt

Mount Auburn

Sanger, Alex

Sanger, Alex

(East of St.

(West of St.

Francis)

Francis)

Truett, G. W.

Roberts, O. M.

Austin, Stephen F.

Robert T. Hill

Casa View

Harris, F. C.

Hexter, Victor

Gill, C. A.

Rice, Charles

Reilly, M. T.

Wheatley, Phyllis

NORTHEAST

Senior High Schools
9-12

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
Bryan Adams	3240	95.2	0	0	163	4.8	4.8	3403	3500
James Madison	0	0	1685	98.1	30	1.7	99.8	1715	2100
Skyline	2040	64.6	925	29.3	193	6.1	35.4	3158	4000
Woodrow Wilson	888	59.0	287	19.0	331	22.0	41.0	1506	1500

97a

98a

NORTHEAST

Feeder Schools for Senior High Schools

9-12

Bryan Adams	Skyline
Casa View	Bayles
Conner, S. S. (North of Ferguson)	Conner, S. S. (South of Ferguson)
Hexter, Victor	Rowe, Edna
Gill, Charles A.	Sanger, Alex (West of St. Francis)
Kiest, E. J.	Silberstein, Ascher
Reilly, M. T.	Urban Park
Reinhardt	
Sanger, Alex (East of St. Francis)	
Truett, G. W.	
James Madison	Woodrow Wilson
Brown, John H.	Crockett, David
City Park	Lakewood
Colonial	Lee, Robert E.
Frazier, J. C.	Lipscomb, W. H.
Harris, F. C.	Jackson, Stonewall
Hassell, T. C.	Mount Auburn
Rice, Charles	Roberts, O. M.
Wheatley, Phyllis	
Austin, Stephen F.	

SOUTHEAST SUB-DISTRICT

SOUTHEAST
K-3

School	Anglo		Black		M-A		Minority %	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
Buckner	93	12.0	490	63.0	194	25.0	88.0	777	750
Dunbar	0	0	700	100.0	0	0	100.0	700	1000
Lagow	447	92.0	6	1.2	33	6.8	8.0	486	800
Macon	221	85.0	2	.8	37	14.2	15.0	260	450
Rhoads	0	0	441	100.0	0	0	100.0	441	1200
Runyon	312	87.4	18	5.0	27	7.6	12.6	357	800
Thompson	0	0	521	100.0	0	0	100.0	521	1700
Titche	249	85.6	18	6.2	24	8.2	14.4	291	800
Anderson, Wm.	305	85.4	10	2.8	42	11.8	14.6	357	800
Moseley	340	93.2	0	0	25	6.8	6.8	365	800

SOUTHEAST

4-5-6

School	K-3*	Anglo		Black		M-A		Minority		Total	Bldg. Cap.
		No.	%	No.	%	No.	%	%	%		
Ireland	283	347	63.5	157	28.8	42	7.7	36.5	36.5	829	800
San Jacinto	292	386	51.5	333	44.4	31	4.1	48.5	48.5	1042	800
Hawthorne	165	316	57.9	201	36.8	29	5.3	42.1	42.1	711	800
Adams, J. Q.	402	469	57.7	266	32.8	77	9.5	42.3	42.3	1214	1000
Rylie	0	406	57.5	244	34.6	56	7.9	42.5	42.5	706	800
Blair	483	123	34.5	194	54.3	40	11.2	65.5	65.5	840	800
Blanton	304	219	57.2	154	40.2	10	2.6	42.8	42.8	687	800
Dorsey	167	161	54.0	77	25.9	60	20.1	46.0	46.0	465	800
Burleson	0	282	57.7	150	30.7	57	11.6	42.3	42.3	489	800

100a

* K-3 students are not included in the ethnic ratios for grades 4-5-6

101a

SOUTHEAST

Feeder Schools for 4-5-6 Centers

Ireland	Adams, J. Q.
Ireland	Adams
Macon	Anderson, Wm.
Thompson*	Thompson*
San Jacinto	Rylie
San Jacinto	Lagow
Rhoads	Buckner/Burleson*
Titche	
Hawthorne	Blair
Hawthorne	
Dunbar	Burleson
Runyon	Moseley
	Buckner/Burleson*
Blanton	Dorsey
Blanton	Dorsey
Dunbar	Buckner/Burleson*

* Assigned to more than one school

SOUTHEAST
Middle Schools
7-8

School	Anglo		Black		M-A		Minority %	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
Hood, J. B.	839	60.4	514	37.0	36	2.6	39.6	1389	2500
Florence, Fred	795	59.2	482	35.9	66	4.9	40.8	1343	1700
Comstock	800	58.6	403	29.5	163	11.9	41.4	1366	1700

102a

103a

SOUTHEAST

Feeder Schools for 7-8 Grade Centers

Hood

Blanton
Hawthorne
San Jacinto
Ireland (North
of Lake June)
Silberstein
Urban Park
Rowe
Frazier
Rhoads

Comstock

Buckner/Burleson
Blair
Dorsey
Moseley
Lagow
Ireland (South
of Lake June)
Adams, J. Q.
(West of Buckner)
Macon (South of
Elam Road)

Florence

Adams, J. Q.
(East of Buckner)
Runyon
Anderson, Wm.
Thompson
Titche
Dunbar
Macon (North
of Elam Road)

SOUTHEAST
Senior High Schools
9-12

School	Anglo		Black		M-A		Minority %	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
Lincoln	0	0	1380	100.0	0	0	100.0	1380	2100
W. W. Samuell*	1850	89.0	89	4.3	140	6.7	11.0	2079	3000
H. Grady Spruce	1667	71.7	412	17.7	246	10.6	28.3	2325	3000

104a

* Children enrolled in the program for the deaf are included.

105a

SOUTHEAST

Feeder Schools for Senior High Schools

Lincoln

Dunbar, Paul
Rhoads, J. J.
Thompson, H. W.

H. Grady Spruce

Adams, J. Q.
(South of Lake June)
Anderson, Wm.
Blair, W. A.
Buckner/Burleson
Dorsey, Julius
Ireland, John (South
of Lake June)
Macon, B. H.
Moseley, Nancy
Runyon (South
of Lake June)
Lagow, Richard

W. W. Samuell

Adams, J. Q. (North
of Lake June)
Blanton, A. W.
Hawthorne, Nathaniel
Ireland (North of
Lake June)
Runyon, John (North
of Lake June)
Titche, Edward
San Jacinto

SOUTHWEST SUB-DISTRICT

SOUTHWEST

K-3; K-2

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
Douglass K-3	5	3.2	63	39.6	91	57.2	96.8	159	400
Juarez K-2	8	5.4	22	21.8	107	72.8	94.6	137	200

106a

SOUTHWEST

4-5-6

School	K-3*		Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%	No.	%			
Birdie Alexander	263		35	12.7	234	84.8	7	2.5	87.3	539	800
Arcadia Park	222		118	72.4	0	0	45	27.6	27.6	385	400
J. W. Carpenter	218		132	69.5	47	24.7	11	5.8	30.5	408	800
N. J. Cochran	309		108	51.4	64	30.5	38	18.1	48.6	578	800
L. P. Cowart	344		139	52.5	1	.4	125	47.1	47.5	595	800
J. Davis	323		81	33.3	126	51.9	36	14.8	66.7	566	800
L. O. Donald	278		139	60.4	0	0	91	39.6	39.6	508	800
L. K. Hall	417		183	55.5	59	17.9	88	26.7	24.6	747	800
M. B. Henderson	324		130	58.6	40	18.0	52	23.4	41.4	546	800
J. S. Hogg	172		39	37.9	7	6.8	57	55.3	62.1	275	400
Lida Hooe	316		136	61.6	2	.9	85	38.5	39.4	537	500
Anson Jones	330		119	49.8	7	2.9	113	47.3	50.2	569	400
Umphrey Lee	500		31	7.8	352	88.9	13	3.3	92.2	896	800
George Peabody	234		80	43.7	-0-	-0-	103	56.3	56.3	417	500
J. Peeler	259		40	25.0	8	5.0	112	70.0	75.0	419	400
J. H. Reagan	279		70	41.9	-0-	-0-	97	58.1	58.1	446	400
Rosemont	340		159	59.8	22	8.3	85	31.9	40.2	606	750
L. A. Stemmons	308		230	69.9	14	4.3	85	25.8	30.1	639	800
Stevens Park	240		110	53.9	39	19.1	55	27.0	46.1	444	800
T. G. Terry	356		112	32.8	196	57.5	33	9.7	67.2	697	800
Adelle Turner	257		116	44.8	142	54.8	1	.4	55.2	516	800
Mark Twain**	270		41	16.9	196	81.0	5	2.1	83.1	512	800

107a

* K-3 Students are not included in the ethnic ratios for grades 4-5-6.

** Mark Twain School will be a 4-6 Vanguard School and 250 student stations will be reserved for integration purposes. Programming will be provided from 7:00 a.m. to 7:00 p.m.

SOUTHWEST

4-5-6

108a

School	K-3*		Anglo		Black		M-A		Minority %	Total	Bldg. Cap.
	No.	%	No.	%	No.	%	No.	%			
Daniel Webster	404	56.2	194	35.9	124	7.8	27	43.7	749	800	
Martin Weiss	251	55.4	97	32.0	56	12.6	22	44.6	426	800	
Winnetka	248	49.8	98	3.0	6	47.2	93	50.2	445	400	
Lanier**	272	12.3	76	16.1	100	71.6	444	87.7	620	800	

108a

- * K-3 students are not included in the ethnic ratios for grades 4-5-6.
- ** Sidney Lanier School will be a 4-6 Vanguard School and 250 student stations will be reserved for integration purposes. Programming will be from 7:00 a.m. to 7:00 p.m.

SOUTHWEST Middle Schools

7-8

School	Anglo		Black		M-A		Minority %	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
William H. Atwell	245	45.5	273	50.6	21	3.9	54.5	539	1700
T. W. Browne	570	58.3	308	31.5	99	10.2	41.7	977	1700
D. A. Hulcy	150	24.3	423	68.7	43	7.0	75.7	616	2500
L. V. Stockard	605	54.3	65	5.9	439	38.8	44.7	1109	1400
W. E. Greiner	624	57.1	77	7.0	392	35.9	42.9	1093	1300

109a

110a
SOUTHWEST

Feeder Schools for 7-8 Grade Centers

William H. Atwell	D. A. Hulcy
Terry, T. G. (North of Camp Wisdom)	Alexander, Birdie Lee, Umphrey Terry, T. G. (South of Camp Wisdom)
Turner, Adelle	Weiss, Martin
Twain, Mark (South of Loop 12)	
	L. V. Stockard
T. W. Browne	Arcadia Park
Carpenter, John	Cowart, L. P.
Cochran, Nancy	Donald, L. O.
Davis, Jeff	Hall, L. K.
Stemmons, L. L.	Jones, Anson
Twain, Mark (North of Loop 12)	Peabody, George Lanier Douglass
Webster, Daniel	Juarez
W. E. Greiner	
Henderson, M. B.	
Hogg, James	
Hooe, Lida	
Peeler, J. F.	
Reagan, John	
Rosemont	
Stevens Park	
Winnetka	

SOUTHWEST
Senior High Schools
9-12

School	Anglo	Black	M-A	Minority	Total	Bldg. Cap.	111a
David W. Carter	No. 705	% 38.3	No. 87	% 4.7	1843	2000	
Justin F. Kimball	1653	74.6	258	11.6	2217	2100	
Sunset	1216	60.8	661	39.2	2001	1800	
Adamson	440	32.6	471	67.4	1349	1300	

112a

SOUTHWEST

Feeder Schools for Senior High Schools 9-12

David W. Carter

Sunset

Alexander, Birdie

Arcadia Park

Lee, Umphrey

Cowart, L. P.

Terry, T. G.

Hooe, Lida

Turner, Adelle

Jones, Anson

Twain, Mark

Peabody, George

(South of

Rosemont

Loop 12)

Stevens Park

Weiss, Martin

Winnetka

Justin F. Kimball

Adamson

Carpenter, John

Bowie

Davis, Jeff

Henderson

Donald, L. O.

Hogg

Cochran, Nancy

Peeler

Hall, L. K.

Reagan

Stemmons, L. L.

Budd

Twain, Mark

Lanier

(North of

Juarez

Loop 12)

Douglass

Webster, Daniel

EAST OAK CLIFF SUB-DISTRICT

EAST OAK CLIFF

K-3

113a

School	Anglo		Black		M-A		Minority %	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
B. F. Darrell	3	.5	619	97.5	13	2.0	99.5	635	750
T. D. Marshall	2	.3	649	98.6	7	1.1	99.7	658	750
E. M. Pease	0	0	723	100.0	0	0	100.0	723	800
Erasmus Seguin	11	1.4	737	91.5	57	7.1	98.6	805	750

EAST OAK CLIFF K-3; 4-5-6

114a

School	K-3*		Anglo		Black		M-A		Minority %	Total	Bldg. Cap.
	No.	%	No.	%	No.	%	No.	%			
James Bowie	357	29.7	56	25.6	98	44.7		70.4	576	800	
Harrell Budd	403	1.5	497	89.2	52	3.3		98.5	960	800	
John N. Bryan	698	0	620	99.5	3	.5		100.0	1231	1400	
W. W. Bushman	689	.8	580	97.5	10	1.7		99.2	1284	1350	
J. N. Ervin	378	.3	302	99.7	0	0		99.7	681	1000	
N. W. Harlee	310	.8	249	98.4	4	.8		99.2	563	800	
Maynard Jackson** 4-6	0	0	634	99.8	1	.2		100.0	635	1000	
A. S. Johnston	588	0	422	94.8	23	5.2		100.0	1033	1350	
Lisbon	390	.3	364	97.9	7	1.8		99.7	762	500	
T. L. Marsalis	242	0	278	99.6	1	.4		100.0	521	800	
Wm. B. Miller	662	0	490	100.0	0	0		100.0	1152	800	
Roger Q. Mills	770	0	406	98.8	5	1.2		100.0	1181	1350	
Clara Oliver 4-6	0	0	665	99.3	5	.7		100.0	670	800	
C. P. Russell 4-6	0	13	2.0	91.6	42	6.4		98.0	656	800	
R. L. Thornton	423	.4	448	99.6	0	0		99.6	873	800	
Whitney Young 4-6	0	1	.2	98.2	10	1.6		99.8	624	800	

114a

* K-3 students are not included in the ethnic ratios for grades 4-5-6.

** Maynard Jackson School will be a 4-6 Vanguard School and 300 student stations will be reserved for integration purposes. Programming will be from 7:00 a.m. to 7:00 p.m.

East Oak Cliff Middle Schools 7-8

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
O. W. Holmes	1	.1	1926	98.7	23	1.2	99.9	1950	2500
Harry Stone	0	0	650	100.0	0	0	100.0	650	800
Boude Storey	18	.9	2041	97.2	40	1.9	99.1	2099	2000
J. N. Ervin	2	1.0	198	99.0	0	0	99.0	200	1000

115a

116a

EAST OAK CLIFF

Feeder Schools for 7-8 Grade Centers

O. W. Holmes

Bryan, J. N. (East of Lancaster)

Bushman, W. W.

Harllee, N. W.

Johnston, A. S.

Mills, R. Q.

Miller, W. B.

Harry Stone

Pease, E. M./Jackson, M.

Darrell, B. F./Young, W.

Boude Storey

Bowie, James

Bryan, J. N. (West of Lancaster)

Budd, Harrell

Lisbon

Marsalis, T. L.

Oliver, Clara/Marshall, T. D.

Russell, C. P./Seguin

Thornton, R. L.

*Ervin, J. N.*East Oak Cliff
Senior High Schools
9-12

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
Roosevelt, F. D.	7	.3	2590	98.1	17	.6	99.7	2615	2200
South Oak Cliff	0	0	4162	100.0	0	0	100.0	2762*	2600

* The former Zumwalt School will house 1,400 ninth grade students from South Oak Cliff High School.

117a

118a

EAST OAK CLIFF

Feeder Schools for Senior High Schools 9-12

F. D. Roosevelt

Bryan, J. N. (East of Lancaster)
 Bushman, W. W. (North of Fordham)
 Johnston, A. S.
 Miller, W. B.
 Mills
 Harllee

South Oak Cliff

Bryan, J. N. (West of Lancaster)
 Ervin, J. N.
 Marsalis, T. L.
 Lisbon
 Oliver, Clara/Marshall, T. D.
 Thornton, R. L.
 Russell, C. P./Seguin, E.
 Bushman, W. W. (South of Fordham)
 Pease, E. M./Jackson M.
 Darrell/Young

SEAGOVILLE SUB-DISTRICT

SEAGOVILLE

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
Kleberg K-6	236	69.6	83	24.4	20	6.0	30.4	339	300
Central 5-6	240	86.3	22	7.9	16	5.8	13.7	278	300
Seagoville K-4	549	82.8	85	12.8	29	4.4	17.2	663	600
Seagoville 7-12	817	81.1	148	14.7	43	4.3	19.0	1008	750

TRANSPORTATION

TRANSPORTATION*

Grades 4-8

	Anglo	Percent	Black	Percent	M/A	Percent	Total
Northwest	2,835	35.4	3,574	44.6	1,601	20.0	8,010
Northeast	1,412	29.0	3,263	67.0	199	4.0	4,874
Southeast	2,129	47.9	2,081	46.8	234	5.3	4,444
Total	6,376	36.8	8,918	51.5	2,034	11.7	17,328
Grades 4-8							
4-8	23,019	40.2	26,442	46.2	7,754	13.6	57,215

Districtwide Enrollment and Ratios — Grades 4-8

* These figures do not include students being voluntarily transported to 4-6 grade Vanguard Schools, 7-8 grade Academies and 9-12 grade Magnet Schools.

It is contemplated that the magnet schools and the various transfer options available will prevent any over crowding of buildings which seems to exist in the figures quoted on the previous pages.

SUPPLEMENTAL ORDER

(Number and Title Omitted)

Filed: Apr. 15, 1976

The Court, finding it necessary to correct clerical errors in the student assignments made in the Final Order entered in this case, hereby Orders that the corrections in the attached Appendix be incorporated in and made a part of the Final Order of April 7, 1976.

It is so ORDERED, this, the 15th day of April, 1976.

/s/ W. M. TAYLOR, JR.
UNITED STATES DISTRICT
JUDGE

APPENDIX

Page 53a - The Northwest Sub-District boundary should read as follows: The boundary is the Dallas-Fort Worth Toll Road commencing at the western boundary of the DISD and extending east to Hampton Road; Hampton Road north to Singleton; Singleton east to Vilbig; Vilbig north to Morris; Morris east to Sylvan; Sylvan north to the Trinity River; the Trinity River south to the Texas & Pacific Railroad; east on the Texas & Pacific Railroad and Pacific Street to Live Oak; northeast on Live Oak to Haskell;

122a

southeast on Haskell to Swiss; northeast on Swiss to Beacon; northwest on Beacon to Lindell; west on Lindell to Hubert; north on Hubert to Lewis; west on Lewis to Greenville; north on Greenville to Miller; west on Miller to McMillan; north on McMillan to the alley between Morningside and McCommas; west on the alley between Morningside and McCommas to Central Expressway; north on Central Expressway to Lovers Lane; east on Lovers Lane to Skillman; south on Skillman to the Missouri-Kansas-Texas Railroad; east on the Missouri-Kansas-Texas Railroad to Abrams Road; south on Abrams Road to Mockingbird Lane; northeast on Mockingbird Lane to Whiterock Creek.

Page 78a - The seventh line from the top of the page should read, "... schools or such programs as special, vocational and bilingual ..."

Page 83a - After the sentence "Tri-Ethnic Committee members shall be appointed by the Court for staggered two-year terms beginning July 1, 1976," the following sentence should be inserted: "The Court requests that the Plaintiffs, DISD, NAACP and other Intervenor, and Amicus Curiae make recommendations (if they so desire) to the Court as to persons willing and able to serve as members of the Tri-Ethnic Committee, when vacancies occur."

Page 92a - Appendix A -

Delete Reilly as a K-3 Center.

Page 93a - Appendix A - Enrollment data should be changed as shown below:

School	K-3	Anglo		Black		M/A		Minority	Total	Building Capacity
		No.	%	No.	%	No.	%			
Conner	250	175	54.0	136	42.0	13	4.8	46.0	574	800
Truett	352	303	53.5	240	42.3	24	4.2	46.5	919	1300
Reilly	311	492	55.8	369	41.8	21	2.4	44.2	1193	1250

Page 94a - Appendix A — The feeder schools for Conner and Truett should be changed as shown below and Reilly added as a 4, 5, 6 grade center with feeder schools as shown below:

Conner	Reilly
Conner Brown*	Reilly Hexter Rice
Truett	
Truett Brown*	

124a

* Assigned to more than one school.

Page 109a - Appendix A — Enrollment data should be changed as shown below:

School	Anglo		Black		M/A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%	%		
Griener	640	54.7	112	9.6	418	35.7	45.3	1170	1300

Page 110a - Appendix A —

James Bowie School should be added to the list of feeder schools for W. E. Griener Middle School.

Page 115a - Appendix A — Enrollment data should be changed as shown below:

School	Anglo		Black		M/A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%	%		
Storey	2	.1	2006	98.7	24	1.2	99.9	2032	2000

125a

Page 116a - Appendix A —

Delete James Bowie School from the list of feeder schools for Boude Storey Middle School.

SUPPLEMENTAL ORDER

(Number and Title Omitted)

Filed: Apr. 20, 1976

The Motion of Plaintiffs to Alter or Amend the judgment entered on April 7, 1976, having come on before the Court, and the Court being of the opinion that it is well taken and should be sustained, it is therefore ORDERED that the April 7, 1976, judgment, Section VI, subsection 2 on page 67a, be and hereby is amended to read as follows:

"2. English-as-a-Second Language (ESL) programming shall be expanded as rapidly as possible to serve all students who are unable to effectively participate in traditional school programming due to inability to speak and understand the English language. Emphasis shall be given to expanding ESL programming in grades 7-8 and 9-12."

/s/ W. M. TAYLOR, JR.
UNITED STATES DISTRICT
JUDGE

4/20/76
Date

SUPPLEMENTAL ORDER CHANGING ATTENDANCE ZONES OF JAMES MADISON HIGH SCHOOL AND LINCOLN HIGH SCHOOL

(Number and Title Omitted)

The Court's desegregation expert, Dr. Josiah C. Hall, has called the Court's attention to a possible error in the attendance zones established for James Madison High School and Lincoln High School under the Court's April 7, 1976, Final Order resulting in the following situation:

- (a) Students in grades 9, 10, 11 and 12 residing in the Charles Rice Elementary School attendance zone have been assigned under the April 7, 1976, Final Order to James Madison High School but actually reside closer to Lincoln High School than James Madison High School and will be going past Lincoln High School in order to reach James Madison High School, and
- (b) Students in grades 9, 10, 11 and 12 residing in the Paul L. Dunbar Elementary School attendance zone have been assigned under the April 7, 1976, Final Order to Lincoln High School but actually reside closer to James Madison High School than Lincoln High School and will be going past James Madison High School in order to reach Lincoln High School.

The Court's desegregation expert, Dr. Josiah C. Hall, has recommended to the Court that the Court correct this situation and that:

- (a) Students in grades 9, 10, 11 and 12 residing in the Charles Rice Elementary School attendance zone should be assigned to Lincoln High School, and
- (b) Students in grades 9, 10, 11 and 12 residing in the Paul L. Dunbar Elementary School attendance zone should be assigned to James Madison High School.

The Court's desegregation expert, Dr. Josiah C. Hall, has advised the Court that these recommended changes will not change the ethnic composition of either Lincoln High School or James Madison High School as exist under the Court's April 7, 1976, Final Order and such changes will create no problems as to building capacity at either James Madison or Lincoln High Schools and that such changes will create no administrative problems for the Dallas Independent School District.

The Court having considered such observations and recommendations made by Dr. Hall is of the opinion and so finds that same are correct and well taken and that Dr. Hall's recommended changes in the attendance zones for James Madison High School and Lincoln High School should be made. The Court is also of the opinion and so finds that such recommended changes are not contrary to the intent and spirit of the entire student assignment plan for all grade levels contained in the Court's April 7, 1976, Final Order, and particularly as same pertains to that of high school student assignments contemplated for grades 9-12.

THEREFORE, IT IS ORDERED that the Court's Final Order of April 7, 1976, including Appendix A thereto,* be, and the same is hereby, changed, altered and amended as follows:

- (a) Students in grades 9, 10, 11 and 12 residing in the Charles Rice Elementary School attendance zone are assigned to Lincoln High School, and
- (b) Students in grades 9, 10, 11 and 12 residing in the Paul L. Dunbar Elementary School attendance zone are assigned to James Madison High School.

DATED August 18th, 1976.

/s/ W. M. TAYLOR, JR.
UNITED STATES DISTRICT
JUDGE

* For point of reference, the feeder elementary schools for James Madison High School appear at p. 98a of Appendix A and the feeder elementary schools for Lincoln High School appear at p. 105a of Appendix A.

130a

APPENDIX "C"

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 76-1849

EDDIE MITCHELL TASBY and
PHILLIP WAYNE TASBY, by their parent and next
friend, SAM TASBY, ET AL.,
Plaintiffs-Appellants
Cross Appellees,

METROPOLITAN BRANCHES OF THE DALLAS
N.A.A.C.P.,
Plaintiffs-Intervenors
Appellants-Cross Appellees,

versus

DR. NOLAN ESTES, ET AL.,
Defendants-Appellees
Cross Appellants.

No. 77-1752

EDDIE MITCHELL TASBY and PHILLIP WAYNE
TASBY, by their parent and next friend, SAM TASBY,
ET AL.,
Plaintiffs,

131a

METROPOLITAN BRANCHES OF THE DALLAS
N.A.A.C.P., ET AL.,
Plaintiffs-Intervenors,
Appellants,

versus

DR. NOLAN ESTES, ET AL.,
Defendants-Appellees.

No. 77-2335

CONCERNED CITIZENS OF GLENVIEW,
Plaintiff-Appellant,

versus

DR. NOLAN ESTES, General Superintendent, ET AL.,
Defendants-Appellees.

Appeals from the United States District Court for the
Northern District of Texas

(April 21, 1978)

Before COLEMAN, TJOFLAT, and FAY, Circuit
Judges.

TJOFLAT, Circuit Judge:

The Dallas Independent School District (DISD), the
eighth largest urban school district in the country, has

been the subject of desegregation litigation for over twenty years.¹ In 1975, a panel of this court remanded the case to the district court with instructions that a plan be implemented that would effectively desegregate the school system. *Tasby v. Estes*, 517 F.2d 92 (5th Cir.), *cert. denied*, 423 U.S. 939, 96 S.Ct. 299 (1975). On remand, a new school desegregation plan was adopted by the district court. *Tasby v. Estes*, 412 F. Supp. 1192 (N.D. Tex. 1976). In these consolidated appeals, the NAACP, intervenors in the desegregation case², primarily challenge the student assignment portion of the district court's order; this will be referred to as the main appeal. The NAACP claims that the student assignment plan cannot pass constitutional muster because of the large number of one-race schools it establishes. The plan divides the DISD into six subdistricts, one of which is nearly all black and contains only one-race schools.³ In the other five sub-

1 The first action to desegregate the Dallas schools was filed in 1955. For a discussion of the Fifth Circuit precedents relating to the desegregation of the DISD, see *Tasby v. Estes*, 517 F.2d 92, 95 (5th Cir.), *cert. denied*, 423 U.S. 939 (1975).

2 In 1975, following remand, the NAACP moved to intervene in the DISD desegregation case, *Tasby v. Estes*, stating that it represented the interests of its members, and its members' children, in the protection of constitutional rights. Record, vol. 1, at 48-51, No. 76-1849. At the hearing held by the district court on the NAACP's motion, counsel for the NAACP moved to amend the motion to intervene by adding the names of three school children. 13th Supp. Record, vol. 7, at 13, No. 76-1849. The DISD continues to contend, as it did below, that the NAACP lacks standing to be a party in this case. We find the DISD's contention to be groundless. We consider the criteria for intervention in a school desegregation case, as established by *Hines v. Rapides Parish School Bd.*, 479 F.2d 762 (5th Cir. 1973), to have been met and affirm the district court's order granting intervention.

3 This subdistrict has approximately 27,500 students attending sixteen schools. For the purpose of this opinion, we define as one-race a school that has a student body with approximately 90% or more of the students being either Anglo or combined minority races. We reiterate the admonition of the prior panel, however, that the 90% figure is not a "magic level below which a school [will] no longer be categorized as 'one-race.'" 517 F.2d at 104.

districts, containing some 160 schools, approximately fifty are still essentially one-race schools. Two other matters concerning the DISD are also before this court: the exclusion of the Highland Park Independent School District from the district court's desegregation plan⁴ and the acquisition and sale of certain school sites by the DISD.⁵

I. The Main Appeal

A detailed description of the proceedings in this complex litigation prior to 1975 can be found in the opinion of the previous panel, which is reported at 517 F.2d 92 (5th Cir.), *cert. denied*, 96 S.Ct. 299 (1975). That panel disapproved the district court's 1971 plan which sought to eliminate the vestiges of a dual school system in the DISD and remanded the case for the formulation of a more effective student assignment plan.

Since 1971, substantial changes have occurred in the DISD. The residential patterns of Dallas have shifted; many areas are now naturally integrated. What was

4 This issue arose from the district court's order in *Tasby v. Estes*, reported at 412 F. Supp. 1185 (N.D. Tex. 1976), and is part of appeal No. 76-1849.

5 Following the implementation of the district court's desegregation plan now under review, the district court authorized the DISD to acquire a shopping center for conversion into classrooms and administrative facilities and to sell a ten-acre parcel of unimproved land. 22d Supp. Record, vol. 1, at 1, No. 76-1849. The propriety of this action is raised in appeal No. 77-1752, brought by the NAACP. In appeal No. 77-2335, the Concerned Citizens of Glenview, a corporation of parents of children who will be assigned to the converted shopping center, appeals the dismissal by the district court of a separate action that it brought to halt the conversion of the shopping center.

formerly a majority Anglo system has become a predominantly minority one, although the population of the city of Dallas remains majority Anglo.⁶ As the district court recognized in fashioning the plan now before us, there may be special considerations involved in devising a school desegregation plan in an urban area with a predominantly minority enrollment that may justify the maintenance of some one-race schools. 412 F. Supp. at 1195-1199. See *Calhoun v. Cook*, 522 F.2d 717 (5th Cir.), rehearing denied, 525 F.2d 1203 (5th Cir. 1975) (discussing similar developments in Atlanta, Georgia).

In devising its plan, the district court considered numerous proposals to desegregate the school system. Plans were submitted by the original plaintiffs; the NAACP; the DISD; Dr. Joseph A. Hall, a court-appointed expert; and the Education Task Force of the Dallas Alliance, a triethnic group and amicus curiae in this suit.⁷ After developing a voluminous record and holding hearings for over a month on the feasibility and effectiveness of these proposals, the district judge drew a comprehensive plan dealing, *inter alia*, with special programs, transportation, discipline, facilities, personnel, and an accountability system, as well as student assignments. 412 F. Supp. at 1195, 1212-21. We find it necessary to remand again the student assignment portion of the plan for further consideration. On remand, the district court should recon-

6 In 1971, the DISD was 69% Anglo; in 1975, it was 41.1% Anglo, 44.5% black, 13.4% Mexican-American, and 1% "other" races.

7 Plans were also submitted by a group of students at Skyline High School, the Alliance for Integrated Education, and "a number of groups and concerned parents." 412 F. Supp. at 1194 n. 4.

sider the other provisions of its plan in the light of the relief it ultimately orders.⁸

The order under review calls for the creation of six subdistricts, generally reflecting the geographical sections of the DISD, for student assignment purposes. Four of these subdistricts, Southwest, Northwest, Northeast, and Southeast, have approximately the racial makeup, plus or minus five percent, of the DISD as a whole. The other two subdistricts each contain a predominant ethnic group. Seagoville, geographically isolated from the rest of the DISD, has an approximately eighty-two percent Anglo enrollment and is the only predominantly Anglo subdistrict. East Oak Cliff, bounded by the Trinity River bottom on one side and by Interstate 35 on the other, is approximately ninety-eight percent black.

The district court order provides for uniform grade configurations throughout the DISD: kindergarten through third grades (K-3) Early Childhood Education Centers, fourth through sixth grades (4-6) Intermediate Schools, seventh and eighth grades (7-8) Middle Schools, and ninth through twelfth grades (9-12)

8 The DISD has taken a rather unique position in this appeal. It supports the present plan in toto, but seeks to have the administrative portions of the plan vacated if the student assignment portion is not upheld. The Curry intervenors, who have represented a group of residents in a northern section of the DISD since 1971, claim that the district court erred in ordering a strict 44% Anglo, 44% black, 12% Mexican-American ratio for all future DISD top administrative posts. Because we wish to grant the district court enough latitude on remand to devise a plan that will be workable, we are not binding it to the present non-student-assignment portions of its order.

High Schools.⁹ Wherever possible, present student assignments are retained in "naturally integrated" areas. Students in the K-3 Early Childhood Education Centers remain in their neighborhood schools.¹⁰ In the areas that are not naturally integrated, students in grades 4-8, the Intermediate and Middle Schools, are assigned to centrally located schools. High school students are assigned to their traditional neighborhood schools.

Various programs to increase the desegregation of the DISD's schools are to be implemented. Majority-to-minority transfers are permitted at all grade levels.¹¹ Present magnet high schools and magnet

⁹ Although the order specifies these grade configurations, the DISD's facilities combine K-6 in most elementary schools.

¹⁰ Two exceptions were made by the district court in order to convert elementary school facilities to magnet school use. Emphasis is placed on improving the quality of early education in these Early Childhood Education Centers.

¹¹ Under this provision, any student assigned to a grade configuration in a particular school

in which the percentage of members of his race is greater than the District-wide percentage of members of his race for [that grade configuration] shall be permitted to transfer to any . . . school in the School District containing his grade level in which the percentage of members of his race is less than the District-wide percentage of his race for [that grade configuration].

412 F. Supp. at 1217. Mexican-Americans, however, are permitted the option of minority-to-majority transfers if they comprise less than five percent of the school to which they are originally assigned. This provision was made to afford them the opportunity to transfer to a school that offers the DISD's Bilingual Education Program. 412 F. Supp. at 1218.

comprehensive high schools¹² are to be maintained and new ones are to be established. The goal is the institution of magnet 9-12 schools throughout the DISD. 412 F. Supp. at 1205.

The DISD acknowledges that the creation of the all black East Oak Cliff subdistrict and the existence of a substantial number of one-race schools militate against the finding of a unitary school system. It contends, however, that this is the only feasible plan in light of natural boundaries and "white flight." The district court was instructed in the opinion of the prior panel to consider the techniques for desegregation approved by the Supreme Court in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 91 S.Ct. 1267 (1971). We cannot properly review any student assignment plan that leaves many schools in a system one race without specific findings by the district court as to the feasibility of these techniques. *Davis v. East Baton Rouge Parish School Board*, No. 75-3610 (5th Cir. April 7, 1978). There are no adequate time-and-distance studies in the record in this case. Consequently, we have no means of determining whether the natural boundaries and traffic considerations preclude either the pairing and clustering of schools or the use of transportation to eliminate the large number of one-race schools still existing. *See Mims v.*

¹² The magnet concept is designed to attract students to a school because of the special career, vocational, or other programs it offers. Magnet schools proposed by the DISD will provide intensive training in a number of fields, including mathematics/science, child-related careers, creative arts, business and management, and health professions. The number of black, Mexican-American, and Anglo students in each magnet comprehensive high school was ordered to be in proportion, plus or minus 10%, to the percentage of each group in the 9-12 student population in the DISD. 412 F. Supp. at 1215-16.

Duval County School Board, 329 F. Supp. 123, 133-34 (M.D. Fla. 1971).

Of particular concern are the high schools that are one race. Although students in the 4-8 grade configurations are transported within each subdistrict to centrally located schools to effect desegregation, the district court's order leaves high school students in the neighborhood schools. Within three of the four integrated subdistricts¹³, this results in high schools that are still one-race schools.¹⁴ The district court is again directed to evaluate the feasibility of adopting the *Swann* desegregation tools for these schools and to reevaluate the effectiveness of the magnet school concept.¹⁵ If the district court determines that the utilization of pairing, clustering, or the other desegregation tools is not practicable in the DISD, then the district court must make specific findings to that effect.

The district court's current desegregation plan requires the DISD to provide transportation for students who are reassigned to a new attendance zone or who choose to attend a magnet school. 412 F. Supp. at 1218. A similar provision was not made for those students who choose the majority-to-minority transfer option.

13 This excludes East Oak Cliff, the black subdistrict, and Seagoville, the one predominantly Anglo subdistrict.

14 In the Northwest subdistrict, one high school is 95% minority and two high schools are 96% Anglo. In the Northeast subdistrict, one high school is 99.8% minority and one is 95% Anglo. In the Southeast subdistrict, one school is 100% minority and one is 89% Anglo.

15 The NAACP's brief cites a statement to the press by Dr. Nolan Estes, superintendent of the DISD, that the magnet school concept has not been effective in desegregating the school system in Dallas. Brief for Intervenor-Appellants, No. 77-1752, at 7.

This omission was error by the district court. The school board, not the students or their parents, must assume the burden of transporting the students. *Swann*, 402 U.S. at 26-27, 91 S. Ct. at 1281. On remand, the district court is directed to include the majority-to-minority transfer option in the transportation provision of the plan finally adopted.

II. The Highland Park Independent School District

After the prior panel remanded this case to the district court, the plaintiffs joined seven independent suburban school districts in the Dallas area as defendants.¹⁶ The plaintiffs alleged that these school districts retained vestiges of dual school systems and that they joined with the DISD in utilizing a student transfer procedure that aided the DISD in maintaining segregated schools. On the basis of this allegedly unlawful procedure, the plaintiffs sought to have the suburban school districts included in the DISD desegregation plan.

The plaintiffs moved for the voluntary dismissal of all but one of the suburban school districts, and the district court dismissed them without prejudice. The remaining school district, Highland Park Independent School District, was dismissed with prejudice by the district court after an evidentiary hearing. *Tasby v. Estes*, 412 F. Supp. 1185 (N.D. Tex. 1975).

The Highland Park Independent School District was created in 1914. It generally serves as the school dis-

16 These school districts were Carrollton-Farmers Branch, DeSoto, Duncanville, Highland Park, Irving, Lancaster, and Wilmer-Hutchins Independent School Districts.

trict for the cities of Highland Park and University Park, although its boundaries are not coterminous with those of the cities. At the time of its inception, the Highland Park school system was outside the city limits of Dallas; now, the city of Dallas completely surrounds Highland Park and University Park. The school system is comprised of six schools,¹⁷ and the current enrollment has stabilized at approximately 4,600 students, all of whom are Anglo. The DISD has approximately thirty times more students than the Highland Park system.

Prior to 1958¹⁸, the Highland Park System conformed with Texas law and segregated school children by race. In order to accomplish this, the few black school children residing within the school district were transported to the DISD, with their tuition being paid by the Highland Park school system.¹⁹ Some Anglo students were allowed to transfer into the Highland Park system until 1971, primarily because either they resided in the cities of Highland Park or University Park or they had moved out of the school district and were being allowed to continue their education in the system. 412 F. Supp. at 1190-91.

¹⁷ There are four elementary schools, one middle school, and one high school in the Highland Park school system.

¹⁸ Even after the Supreme Court's decision in *Brown v. Bd. of Education*, 349 U.S. 294 (1955), Texas laws required segregation. The penalties for violating the statutes included loss of funding and accreditation. 412 F. Supp. at 1189.

¹⁹ The figures show that the greatest number of black students for whom tuition was paid by the Highland Park school system during any academic year was eleven. 412 F. Supp. at 1190.

The district court found that the Highland Park Independent School District has not maintained a policy of school segregation since 1958. This finding is supported by the record and, as it is not clearly erroneous, is accepted by this court. Fed. R. Civ. P. 52(a). Given this twenty year history of nondiscrimination and the negligible effect that the system's prior policy of segregation had on the DISD or its own system, we find that the district court did not err in refusing to include the Highland Park Independent School District in the student assignment plan for the DISD. See *Dayton Board of Education v. Brinkman*, 97 S.Ct. 2766, 2775-76 (1977); *Milliken v. Bradley*, 418 U.S. 717 (1974).

III. The Acquisition and Sale of School Sites.

On October 11, 1976, following the implementation of the district court's plan to desegregate DISD, the Board of Education of the DISD²⁰ unanimously resolved that an election be called to authorize the Board to issue \$80,000,000 in bonds for school site acquisitions, construction, and equipment. The bond issue passed overwhelmingly in all subdistricts on December 11, 1976.

The prior panel had directed the district court

to evaluate all of the site acquisition, school construction and facility abandonment plans put forward by the DISD in light of the impact which these undertakings will have upon the disestablishment of the dual school system.

²⁰ This body was composed of six Anglos, two blacks, and one Mexican-American.

Only those projects which will foster the desegregation process should be approved by the district court and such approval should be given only after full hearing and after the making of findings of fact and conclusions of law regarding each such project.

517 F.2d at 110. The DISD submitted forty-two plans, including thirty-two site acquisitions and constructions and ten abandonments, to the district court on February 17, 1977, and a hearing was held on February 24. On March 2, the district court approved each of the plans. In appeal No. 77-1752 the NAACP questions the district court's approval of two of these plans: the acquisition of the A. Harris Shopping Center for conversion into a school²¹ and the sale of one parcel of unimproved land. The shopping center and the land in question are both located in the East Oak Cliff subdistrict.

The A. Harris Shopping Center site occupies twenty-eight acres of land, divided into two tracts by a street. There are 305,000 square feet of existing building space on the eighteen acre tract. The site was purchased by the DISD for approximately \$1,800,000, an amount far below what it would cost the DISD to purchase twenty-eight acres and build comparable floor space.²² The DISD proposed an initial outlay of \$500,000 for renovation of the existing structures, with an additional \$1,000,000 to be spent over the next five years. 2d Supp. Record, vol. 1, at 29, 167, No. 77-1752.

21 The NAACP filed a motion to stay the conversion of the shopping center, which the district court denied on April 5, 1977. The NAACP then filed a motion to stay with this court, which was carried with the case. In accordance with our determination of the merits of this issue, that motion is denied.

22 Testimony in the record indicates that it would cost more than \$30.00 a square foot to construct this amount of building space. 2d Supp. Record, vol. 1, at 28-29, No. 77-1752.

The DISD's plans for the shopping center complex include a K-12 school²³, facilities to provide a number of education services²⁴, and facilities to provide social services²⁵. There will also be traditional grade levels K-3, 4-6, 7-8, and 9-12. These different educational operations will be conducted as distinct facilities with separate administrations, teaching staffs, and physical education programs. The DISD anticipates that it will ultimately assign approximately 2,400 students to the traditional K-12 school units.

The crux of the NAACP's argument about the shopping center site is that its location in East Oak Cliff, with an attendance zone that encompasses only East Oak Cliff schools, perpetuates school segregation in Dallas. Virtually all of the students to be assigned to the new school will be black. The NAACP also raises questions concerning the combination of programs to be implemented in the shopping center site. One of the programs is to be a "metropolitan" school, an alternative school for "troubled" students, i.e., those students who experience difficulty in the more traditional school setting. Also raised as grounds for not

23 This K-12 school is to be developed as a career education program under a \$600,000 grant. The district court ordered the DISD to implement this program "as rapidly as possible." 412 F. Supp. at 1216.

24 These educational services are to include a pre-school, a continuing education program (evening), a personnel development center, a gifted and talented program, a fine arts center, a recreational center (day and evening), an extended day program, alternative schools for troubled students, a vocational/industrial arts program, pupil personnel services or special education, and instructional services.

25 These social services are to include a senior citizens program, a health services agency, family services, a parent education program, and employment agencies.

converting the shopping center to educational use are the traffic problem because of its location near two freeways and the inferiority of the facilities.²⁶

We defer to the DISD's expertise in establishing suitable programs for the school children of Dallas. The long-range plans for the shopping center site include many valuable facets for the education of the community. The DISD has stated that the programs will be separated, the existing structures will be renovated, and unoccupied space will be converted to traditional recreational and playground space suitable for the various grade-level school units. We are remanding this case to the district court for further consideration of its student assignment plan; on remand, the district court is directed to consider assigning Anglo students to the new complex. As the DISD notes, the shopping center site is easily accessible to the entire city. 2d Supp. Record, vol. 1, at 30, No. 77-1752. Time-and-distance studies should emphasize the feasibility of transporting Anglo students to attend school there.

The unimproved land in question is located on the southern edge of East Oak Cliff, some twenty-five miles from the northern edge of the DISD. It is therefore isolated from the remaining Anglo students who do not reside in naturally integrated areas. The record also reflects that the site has poor access potential. Given these facts in the record, we find no error in the district court's approval of the sale of this land.

²⁶ No playgrounds were available and the existing structure was allegedly dilapidated and structurally deficient.

The Concerned Citizens of Glenview, a corporation of parents of school children who will be assigned to the shopping center complex under the present student assignment plan, brought a separate action to enjoin construction and renovation of the A. Harris Shopping Center. On May 18, 1977, the district court held a hearing on the Concerned Citizens' request for injunctive relief. At that hearing, the district judge ruled that this case should be dismissed on the basis of the doctrine of virtual representation, i.e., Concerned Citizens was in effect represented by the NAACP when the issue was presented in the *Tasby* case. The Concerned Citizens claims on appeal that the focus of its suit, that the shopping center facility will be inferior thereby denying the students equal protection of the laws, is different from that of the NAACP, that the use of the shopping center will perpetuate a dual school system.

We have considered the adequacy of the proposed shopping center facility in connection with the NAACP's appeal. Our disposition in that case renders moot the appeal of the Concerned Citizens of Glenview.

IV. Conclusion

In No. 76-1849, we REMAND the case to the district court for the formulation of a new student assignment plan and for findings to justify the maintenance of any one-race schools that may be a part of that plan. The district court is directed to include in its plan a majority-to-minority transfer option with adequate transportation. As for the remaining provisions of its

order here under review, the district court is to reassess such provisions in light of the remedy it fashions with respect to school assignments. The district court's exclusion of the Highland Park Independent School District from its desegregation plan for the DISD is AFFIRMED.

In No. 77-1752, the district court's approval of the sale of the ten-acre parcel of land in East Oak Cliff and the acquisition of the A. Harris Shopping Center is AFFIRMED, with the proviso that the district court consider the feasibility of desegregating the new complex. The appeal in No. 77-2335 is DISMISSED as moot.

APPENDIX "D"

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

OFFICE OF THE CLERK

May 22, 1978

TO ALL PARTIES LISTED BELOW:

NO. 76-1849 — EDDIE MITCHELL TASBY, ET AL. v.
METROPOLITAN BRANCHES OF
THE DALLAS NAACP v. DR. NOLAN
ESTES, ET AL.

Dear Counsel:

This is to advise that an order has this day been entered denying the petition(s) for rehearing, on behalf of appellees, and no member of the panel nor Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Local Fifth Circuit Rule 12) the petition for rehearing en banc has also been denied.

See Rule 41, Federal Rules of Appellate Procedure for issuance and stay of the mandate.

Very truly yours,
EDWARD W. WADSWORTH,
Clerk

/s/ BRENDA M. HAUCK
Deputy Clerk

bmh

cc: Mr. Edward B. Cloutman
Ms. Sylvia M. Demarest
Mr. E. Brice Cunningham
Mr. Warren Whitham
Mr. Mark Martin
Mr. James W. Deatherage
Mr. Richard E. Gray
Messrs. Robert H. Mow
Robert L. Blumenthal
Mr. James A. Donohoe
Messrs. H. Ron White
Walter L. Irvin
Daniel Solis

148a

APPENDIX "E"

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 76-1849

EDDIE MITCHELL TASBY, ET AL.,
Plaintiffs-Appellants
Cross Appellees,

METROPOLITAN BRANCHES OF THE DALLAS
N.A.A.C.P.,
Plaintiffs-Intervenors
Appellants-Cross Appellees,

versus

DR. NOLAN ESTES, ET AL.,
Defendants-Appellees
Cross Appellants.

Appeal from the United States District Court for the
Northern District of Texas

MOTION FOR STAY OF MANDATE
(The Dallas Independent School District)

149a

The Defendants-Appellees and Cross Appellants, the Board of Trustees of the Dallas Independent School District and its General Superintendent, move the Court to stay the mandate in this action and not permit the same to be issued out of said cause until the further order of the Court on the ground and for the reason that they expect and intend, in good faith, within the time allowed by law, to apply to the Supreme Court of the United States of America by petition for a review on Writ of Certiorari of the decision and judgment of this Court of April 21, 1978, in No. 76-1849 insofar as this Court has remanded the case to the District Court for the formulation of a new student assignment plan for the Dallas Independent School District and for findings to justify the maintenance of any one-race schools that may be a part of that plan.

WHEREFORE, the Defendants-Appellees and Cross Appellants, the Board of Trustees of the Dallas Independent School District and its General Superintendent, pray that this Court make and enter an appropriate order staying the issuance of the mandate in this action insofar as this Court has remanded the case to the District Court for the formulation of a new student assignment plan for the Dallas Independent School District and for findings to justify the maintenance of any one-race schools that may be a part of that plan until the further order of the Court.

Respectfully submitted,
/s/ WARREN WHITHAM
Warren Whitham
210 Adolphus Tower
Dallas, Texas 75202
214/748-9657

150a

Mark Martin
1200 One Main Place
Dallas, Texas 75250
214/658-1500

Attorneys for Defendants-
Appellees and Cross Appellants

CERTIFICATE OF SERVICE

A copy of the foregoing Motion for Stay of Mandate has been mailed this 24th day of May, 1978, by the undersigned attorneys for Defendants-Appellees and Cross Appellants (Dallas Independent School District) to the following attorneys of record:

Mr. Edward B. Cloutman, III
8204 Elmbrook Drive, Suite 200
P.O. Box 47972
Dallas, Texas 75247

Mr. Thomas E. Ashton, III
Dallas Legal Services
Foundation, Inc.
912 Commerce Street, Room 202
Dallas, Texas 75202

Mr. E. Brice Cunningham
2606 Forest Avenue, Suite 202
Dallas, Texas 75215

Mr. Nathaniel R. Jones
1790 Broadway, 10th Floor
New York, New York 10019

Mr. Robert H. Mow, Jr.
Mr. Robert L. Blumenthal
3000 One Main Place
Dallas, Texas 75250

Mr. James A. Donohoe
1700 Republic National Bank
Building
Dallas, Texas 75201

Ms. Vilma S. Martinez
Mexican-American Legal Defense
and Educational Fund
28 Geary Street
San Francisco, California 94108

Mr. Lee Holt,
City Attorney
New City Hall
Dallas, Texas 75201

Mr. Martin Frost
3131 Turtle Creek Boulevard
Suite 222
Dallas, Texas 75219

Mr. John Bryant
8035 East R. L. Thornton
Dallas, Texas 75228

Mr. H. Ron White
1907 Elm Street, Suite 2100
Dallas, Texas 75201

Mr. James G. Vetter, Jr.
555 Griffin Square Building
Suite 920
Dallas, Texas 75202

151a

and to the following intervenor pro se:

Mr. James T. Maxwell
4440 Sigma Road, Suite 112
Dallas, Texas 75240

/s/ WARREN WHITHAM
Warren Whitham

Mark Martin

Attorneys for Defendants-
Appellees and Cross Appellants

APPENDIX "F"

**SUMMARY EXAMPLES OF NON-STUDENT
ASSIGNMENT REQUIREMENTS INCLUDED IN
THE DISTRICT COURT'S APRIL 7, 1976, FINAL
ORDER**

1. The requirement to provide a comprehensive program of instruction in all areas based on the developmental needs of young children and the DISD's Baseline Curriculum Program.

2. The requirement that this K-3 approach shall be primarily diagnostic-prescriptive.

3. The requirement that the approach in the Baseline Curriculum implementation for K-3 include:

(a) Individualization of instruction.

(b) Principal and staff planning for implementing the program in each school in conjunction with parent advisory committees at each school.

(c) Reduction of the adult-pupil ratio from that which exists with an adult-student ratio of 1-10 as a goal to be achieved as rapidly as possible.

(d) Continuation of a staff development program to implement the DISD Baseline Curriculum to meet early childhood education

needs and further individualization of instruction with involvement of parents in participating roles.

(e) Partnerships with community groups, business and other agencies which serve young children.

(f) Efforts to maximize parental involvement in planning, reinforcing and complementing their children's learning.

(g) Use of the Early Childhood Education Centers as Administrative units which have a primary responsibility for delivering quality learning experiences.

4. The requirement to establish in 1976-77 at least two exemplary development and demonstration classes for children in the East Oak Cliff Subdistrict.

5. The requirement to continue to develop prototypic enrichment programs for K-3 students.

6. The requirement that the instructional program in 4-6 and 7-8 centers follow the DISD's Baseline Curriculum.

7. The requirement that each principal and his staff in the 4-6 and 7-8 centers develop in conjunction with parent advisory committees' plans for the implementation of the Baseline Curriculum in his school.

8. The requirement that new campuses and facilities provided for in Paragraph XIII have programs which include extracurricular activities and full participation in Interscholastic League activities.

9. The requirement that the DISD shall continue to implement its career education plan for grades 1-12 as rapidly as possible.

10. The requirement that the present bilingual program be expanded as rapidly as possible, to all pupils in grades K-6.

11. The requirement that the English-as-a-Second Language program be expanded as rapidly as possible to serve all students who are unable to effectively participate in traditional school programming due to inability to speak and understand the English language with emphasis to expand this programming in grades 7-8 and 9-12.

12. The requirement that the DISD provide multicultural social studies educational programs in all grade levels.

13. The requirement that the Plan A Program (a State special education program) now provided by the DISD be administered according to the State Board of Education Plan and Guidelines.

14. The requirement that students who require special instructional techniques and arrangements by reasons of handicapping conditions be served by the

DISD's special educational program, consistent with the State Board of Education Plan and Guidelines.

15. The requirement that the DISD in concert with teachers, principals and parents develop a clear and simply-stated policy on student discipline including provision for due process procedures and that all parents and students be fully advised of these rules and regulations.

16. The requirement that the DISD develop recruiting and employment policies to insure that competent personnel are employed.

17. The requirement that by 1979-80 the percentages of Black and Mexican-American personnel approximate as a minimum 31% Black and 8% Mexican-American as to teachers, principals and other certified professional personnel excluding the 142 top salaried administrators mentioned below.

18. The requirement as to the 142 top salaried administrative positions that by September 1, 1979, the following ethnic percentages be achieved, to-wit: 44% Anglo, 44% Black and 12% Mexican-American, with the further requirement that one-third of this transition be achieved by September 1, 1977, one-third by September 1, 1978, and the final one-third by September 1, 1979. (A variance of 5% in the percentages is permitted.)

19. The requirement with respect to these 142 positions that at all times after September 1, 1979, the Anglo/Black percentages remain equal except that

both will decrease if the percentage of the Mexican-American enrollment increases above 12%.

20. The requirement that the competence of personnel be continually assessed in accordance with policies and procedures established by the DISD.

21. The requirement that in depth training of teachers, principals and administrators be provided as needed to implement the Court's Order and that attendance of such personnel be required.

22. With respect to the internal accountability system and auditor, the implied requirement of an affirmative action program in recruiting and employment.

23. With respect to the internal accountability system and auditor, the implied requirement to give standardized achievement tests to students.

24. With respect to the internal accountability system and auditor, the implied requirement to have (a) parent involvement efforts, (b) staff development programs, (c) communications and community relations programs, (d) student leadership training programs, and (e) safety and security (including due process procedures programs).

25. The requirement for an external educational audit of DISD.

26. With respect to the external educational audit, the implied requirement that educational offerings

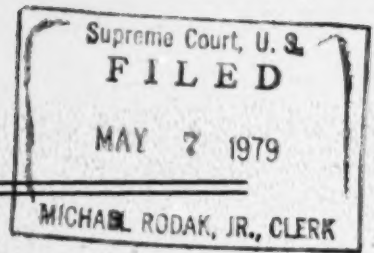
and course offerings in the DISD are subject to the District Court's study, examination and approval.

27. With respect to the external educational audit, the implied requirement that parents and community be encouraged to participate in the educational process on the 9-12 level.

28. To the extent that the external educational audit deals with the operation and management of business and affairs of the DISD and the education, curriculum and program aspects of the DISD, then with respect to the external educational audit, the implied requirement that hearings can be had and action taken by the Court with respect to these matters.

aspropendix

APPENDIX



IN THE
Supreme Court of the United States
OCTOBER TERM, 1978

No. 78-253

NOLAN ESTES, ET AL.,
Petitioners,
versus

METROPOLITAN BRANCHES OF THE DALLAS
N.A.A.C.P., ET AL.

No. 78-282

DONALD E. CURRY, ET AL.,
Petitioners,
versus

METROPOLITAN BRANCHES OF THE DALLAS
N.A.A.C.P., ET AL.

No. 78-283

RALPH F. BRINEGAR, ET AL.,
Petitioners,
versus

METROPOLITAN BRANCHES OF THE DALLAS
N.A.A.C.P., ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITIONS FOR CERTIORARI FILED AUGUST 14,
AUGUST 19 AND AUGUST 19, 1978
CERTIORARI GRANTED FEBRUARY 21, 1979

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1978

No. 78-253

NOLAN ESTES, ET AL.,
Petitioners,

versus

METROPOLITAN BRANCHES OF THE
DALLAS N.A.A.C.P., ET AL.,
Respondents.

No. 78-282

DONALD E. CURRY, ET AL.,
Petitioners,

versus

METROPOLITAN BRANCHES OF THE
DALLAS N.A.A.C.P., ET AL.,
Respondents.

No. 78-283

RALPH F. BRINEGAR, ET AL.,
Petitioners,

versus

METROPOLITAN BRANCHES OF THE
DALLAS N.A.A.C.P., ET AL.,
Respondents.

ON WRITS OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

INDEX

	Page
Chronological List of Relevant Docket Entries	1
Memorandum Opinion, Filed July 16, 1971	Brinegar Pet.App.A-1
Order permitting NAACP to intervene, Filed August 25, 1975	13
Opinion and Order, Filed March 10, 1976	Estes Pet.App.4a
Supplemental Order, Filed March 15, 1976	Estes Pet.App.45a

INDEX (Continued)

	Page
Supplemental Opinion and Order, Filed April 7, 1976	Estes Pet.App.46a
Final Order, Filed April 7, 1976	Estes Pet.App.53a
Supplemental Order, Filed April 15, 1976	Estes Pet.App.121a
Supplemental Order, Filed April 20, 1976	Estes Pet.App.126a
Page 4 of Plaintiffs' Brief in Support of Motion for Attorneys' Fees and Costs, Filed April 30, 1976	14
Page 3 of Memorandum Opinion (Re at- torneys' fees and costs), Filed July 20, 1976	15
Supplemental Order Changing Atten- dance Zones of James Madison High School and Lincoln High School, Filed August 18, 1976	Estes Pet.App.127a
Opinion of the United States Court of Appeals for the Fifth Circuit, Filed April 21, 1978	Estes Pet.App.130a

iv
INDEX (Continued)

	Page
Judgment of the United States Court of Appeals for the Fifth Circuit, Dated April 21, 1976	16
Letter from Clerk of the United States Court of Appeals for the Fifth Circuit advising the Court had denied Petition for Rehearing, Dated May 22, 1978	Estes Pet.App.146a
Motion for Stay of Mandate in the United States Court of Appeals for the Fifth Circuit, Filed May 26, 1978	Estes Pet.App.148a
Order of the United States Court of Appeals for the Fifth Circuit denying Motion for Stay of Mandate, Filed August 14, 1978	18
Quotation of language prepared by Petitioners Brinegar, et al., referring to one or more of the opinions, orders, decisions or judgments of the lower Courts and where it may be found; said language designated by that party to be included in the Appendix	19
Quotation of language prepared by Petitioners Curry, et al., referring to one or more of the opinions, orders, decisions or judgments of the lower	

v
INDEX (Continued)

	Page
Courts and where it may be found; said language designated by that party to be included in the Appendix	19
Quotation of language prepared by Respondents Tasby, et al., referring to one or more of the opinions, orders, decisions or judgments of the lower Courts and where it may be found; said language designated by that party to be included in the Appendix	20
Quotation of language prepared by Respondents Tasby, et al., referring to the fact that a Petition for Certiorari was filed by Petitioners Estes, et al., to review the decision of the Court of Appeals reported at 517 F.2d 92 (5th Cir. 1975); said language designated by that party to be included in the Appendix	20
Quotation of language prepared by Respondents Tasby, et al., referring to the fact that the above-mentioned Petition for Certiorari was denied and where denial is reported; said language designated by that party to be included in the Appendix	20

vi
INDEX (Continued)

	Trans. Pages	App. Pages
Excerpts from Transcript of Proceedings:		
Testimony of Dr. Nolan Estes, Witness on Behalf of Defen- dants		
Direct Examination	62	21
Cross Examination	278	36
Re-Direct Examination	404	37
Testimony of Kathlyn Gilliam, Witness on Behalf of Plaintiffs		
Cross Examination	54	40
Testimony of Dr. Jose Cardenas, Witness on Behalf of Plaintiffs		
Cross Examination	333	44
Testimony of Dr. Charles V. Willie, Witness on Behalf of Plaintiffs		
Cross Examination	134	50
Testimony of Yvonne Ewell, Witness on Behalf of Plaintiffs		
Direct Examination	192	59
Cross Examination	213	65
Testimony of Edward B. Clout- man, III, Witness on Behalf of Plaintiffs		
Direct Examination	231	70
Cross Examination	329	75

vii
INDEX (Continued)

	Trans. Pages	App. Pages
Testimony of Dr. Charles Hunter, Witness on Behalf of NAACP-Intervenors		
Direct Examination	6	92
Cross Examination	106	96
Testimony of Dr. Josiah C. Hall, Jr., Witness on Behalf of the Court		
Direct Examination	123	100
Pre-Trial Hearing re Educational Task Force of the Dallas Alliance and Court permitting Educational Task Force to intervene as Amicus Curiae	295	103
Testimony of Dr. Paul Geisel, Witness on Behalf of the Court		
Direct Examination	2	122
Cross Examination	50	132
Examination	369	155
Testimony of Susan Murphy, Witness on Behalf of Brinegar- Intervenors		
Direct Examination	332	163
Testimony of Ram Singh, Witness on Behalf of Brinegar- Intervenors		
Direct Examination	357	168

viii
INDEX (Continued)

	Trans. Pages	App. Pages
Testimony of William Darnell, Witness on Behalf of Brinegar- Intervenors		
Direct Examination	377	174
Testimony of Robert Lee Burns, Witness on Behalf of Brinegar-Intervenors		
Direct Examination	400	190
Testimony of Evelyn Dun- savage, Witness on Behalf of Brinegar-Intervenors		
Direct Examination	15	191
Testimony of Rene Martinez, Witness on Behalf of the Court		
Direct Examination	361	196
Excerpts from Transcript of Hearing on Plaintiffs' Motion for Further Relief	82	198
Excerpts from Transcript of Called Hearing of Judge Taylor .	2	205
Excerpts from Transcript of Proceedings of February 24, 1977		
Testimony of Dr. Nolan Estes, Witness on Behalf of Defen- dants		
Direct Examination	5	216

ix
INDEX (Continued)

	Page
Defendants' Exhibit No. 1 — Map (Reduced in size)	219
Defendants' Exhibit No. 2 — Map (Reduced in size)	220
Defendants' Exhibit No. 3 — Map (Reduced in size)	221
Defendants' Exhibit No. 11, pages 1 and 2 — Dallas In- dependent School District Stu- dent Assignment Plan for Elementary and Secondary Schools	222
Defendants' Exhibit No. 13 — Historical Enrollment of Dallas Independent School District .	224
Defendants' Exhibit No. 17 — Minutes of Called Board Meeting of Dallas Alliance ..	226
NAACP's Exhibit No. 2, pages 6 through 8 — Proposed Plan for Desegregation	230
Plaintiffs' Exhibit No. 16, pages 2, 9, 34, 36, 38, 39 and 41 — Plai- tiffs' Desegregation Plans A and B	234

x
INDEX (Continued)

	Page
Court's Exhibit No. 9 — Letter from Dallas Alliance Education Task Force dated March 3, 1976	250
Hall's Exhibit No. 5, pages 14 through 19 — A Potential Plan for Compliance with Rulings for Operating Schools in Dallas, Texas	251
Curry's Exhibits 6 through 9 — The Effect of Court-Ordered Busing on White Flight (Reduced in size)	260
Brinegar's Exhibit No. 6, pages vi and 27 — Report No. 2 of East Dallas Demonstration	265
Certificate of Service	268

In the United States District Court for the
Northern District of Texas, Dallas Division

EDDIE MITCHELL TASBY, et al

versus CA NO. 3-4211-C

DR. NOLAN ESTES, et al

Chronological List of Relevant Docket Entries:

DATE	PROCEEDINGS
10- 6-70 —	Plaintiffs' Complaint
10-15-70 —	Plaintiffs' First Amended Complaint
10-26-70 —	Defendants' Answer
7- 2-71 —	James T. Maxwell's Motion to Intervene (Proposed Intervenor's Complaint attached)
7- 9-71 —	Donald E. Curry, Gerald A. Van Winkle, Joe M. Gresham, Edmund S. Rouget and Robert A. Overton, individually and as next friends for their children, Motion to Intervene as Defendants with Affirmative Pleas (Defenses and Claims in Intervention attached)
7-12-71 —	Opposition and Objections of the Defendants to Interventions
7-16-71 —	Memorandum Opinion
7-22-71 —	Order Allowing Intervention as Defendants: that Donald E. Curry, Gerald A.

Van Winkle, Joe M. Gresham, Edmund S. Rouget and Robert A. Overton have leave to intervene in this cause and hereby made a party Defendant to this cause.

8- 6-71 — Notice of Cross-Appeal on behalf of Defendant-Intervenors Donald G. Curry, et al.

8- 9-71 — Supplemental Order for Partial Stay of Judgment: (1) Par. 10-B of 8-2-71 Judgment, pertaining to pairing/grouping of Kimball, Carter and South Oak Cliff High Schools; (2) Par. 10-C providing for the satelliting of students from Hassell, Browne, Wheatley, Ray, Frazier, Carr, Anderson, Dunbar, Arlington Park, Tyler and Carver elementary school zones — into high schools, as shown on Appendix A of the Judgment; (3) Par. 11-B of said Order pertaining to Junior High Schools and pairing Atwell, Browne, Hulcey, Storey and Zumwalt; (4) Par. 11-C also pertaining to Junior High Schools and pairing Stockard, Edison and Sequoyah; and (5) Par. 11-D pertaining to satelliting students from Hassell, Harris, Arlington Park, Tyler, and part of Carver into Junior High Schools, as shown on Appendix B of said Order, be and the same are hereby stayed unto 1-10-72, and students assigned in the satellite zones by the August 2nd Order are to be reassigned by the Board of

Education to appropriate High and Junior High Schools, taking into consideration capacity and establishment of a unitary school system. In all other respects the August 2nd Judgment shall remain in full force and effect.

8-12-71 — Motion to Intervene as Defendant by the City of Dallas

8-16-71 — Defendant-Intervenors Donald G. Curry, et al Designation of Contents of Record on Appeal

8-17-71 — Supplemental Opinion Regarding Partial Stay of Desegregation Order

8-17-71 — Transcript of Proceedings (Vols. I, II, III, IV and V) with exhibits:
PX-1 thru 5, . . .

8-31-71 — Order granting permission that the City of Dallas to intervene herein as defendant, adopting the Answer of the Defendant Dallas Independent School District as its own with like effect as if fully repeated

8- 5-75 — The Metropolitan Branches of the Dallas N.A.A.C.P.'s Motion to Intervene

8-14-75 — Opposition and Objections of the Defendants to Intervention of the Metropolitan Branches of the Dallas NAACP

8-14-75 — Motion to Intervene by Strom, et al.

8-14-75 — Memorandum Brief in Support of Motion to Intervene (by Strom, et al)

8-21-75 — Opposition and Objections of the Defendants to the Intervention of Dr. E. Thomas Strom, et al.

- 8-21-75 — Plea in Intervention of Dr. E. Thomas Strom, Charlotte Strom, et al
- 8-21-75 — Letter from attorney John W. Bryant requesting addition of certain persons to motion to intervene as parties to this cause
- 8-25-75 — Order that Dr. E. Thomas Strom, et al, and the Metropolitan Branches of the NAACP be permitted to file their respective Pleas of Intervention and become parties in this cause
- 9- 3-75 — Complaint of Intervenors The Metropolitan Branches of the National Association for the Advancement of Colored People
- 9- 9-75 — Motion to Intervene of Ralph F. Brinegar, Wallace H. Savage, Evelyn T. Green, Craig Patton, Dr. John A. Ehrhardt and Harryette B. Ehrhardt, Richard L. Rodriguez and Alicia V. Rodriguez, Mr. and Mrs. Salomon Aguilar, Marjorie M. Oliver, Mr. and Mrs. Ruben L. Hubbard, Robert L. Burns, Dr. Percy E. Luecke, Jr., Dale L. Ireland and Barbara J. Ireland, and Evelyn C. Dunsavage.
- 9-10-75 — Brief of East Dallas Residents in Support of Motion to Intervene
- 9-10-75 — N.A.A.C.P.'s Proposed Plan for Desegregation
- 9-10-75 — Dallas Independent School District Student Assignment Plan for Elementary and Secondary Schools.

- 9-15-75 — Opposition and Objections of the Defendants to the Intervention of Ralph F. Brinegar, et al.
- 9-17-75 — Order granting motion for leave to intervene filed by Ralph F. Brinegar, Wallace H. Savage, Evelyn T. Green, Craig Patton, Dr. John A. Ehrhardt and Harryette B. Ehrhardt, Richard L. Rodriguez and Alicia V. Rodriguez, Mr. and Mrs. Salomon Aguilar, Marjorie M. Oliver, Mr. and Mrs. Ruben L. Hubbard, Robert L. Burns, Dr. Percy E. Luecke, Jr., Dale L. Ireland and Barbara J. Ireland, and Evelyn C. Dunsavage, on behalf of themselves and all other persons similarly situated
- 9-18-75 — Intervenors' (Curry, et al) Motion in Opposition to Findings Not Based on Evidence and Request for Production of Data and Documents
- 9-24-75 — Plea of Intervention by East Dallas Residents (Ralph F. Brinegar, et al)
- 9-26-75 — Order that Dr. Josiah C. Hall be and is hereby appointed as expert advisor to the court in the techniques of school desegregation
- 9-26-75 — DISD's Student Assignment Plan for Elementary and Secondary Schools with 7 maps as exhibits.
- 9-26-75 — DISD's Corrections on student assignment plan

- 10- 7-75 — Intervenor Dr. E. Thomas Strom's Standards for Consideration in Formulating Plans for Additional School Desegregation
- 11-14-75 — Letter dated November 12, 1975 from the Court of Appeals Stating: We have received a certified copy of an order of the Supreme Court denying certiorari in the above cause. This court's judgment as mandate having already been issued to your office, no further order will be forthcoming.
- 12-29-75 — Court Appointed Advisor Hall's Desegregation Plan, with map
- 1-12-76 — Plaintiffs' Proposal to Desegregate the Dallas Independent School District, with Maps
- 2-17-76 — Desegregation Plan of Dallas Alliance, and received comments of James W. Rutledge (attached to Plan). Also received comments of black representatives (attached to Plan)
- 2-20-76 — Order that the Education Task Force of the Dallas Alliance be granted the status of Amicus Curiae for purpose of presenting their ideas and/or Plan for desegregation of the Dallas Independent School District. Copies distributed in courtroom.
- 3- 3-76 — Letter from Jack Lowe, Sr. to Hon. W. M. Taylor, Jr. transmitting revised plan of the Dallas Alliance Education Task Force

- 3-10-76 — Memorandum Opinion and Order (. . . that the modified plan of the Educational Task Force of the Dallas Alliance filed with the Court on March 3, 1976 is hereby adopted as the Court's plan for removal of all vestiges of a dual system remaining in the Dallas Independent School District and the school district is directed to prepare and file with the Court a student assignment plan carrying into effect the concept of said Task Force plan no later than March 24, 1976)
Copies distributed to counsel in courtroom.
- 3-15-76 — Supplemental Order (. . . some questions have arisen regarding the Court's adoption of the Dallas Alliance's plan. So that there is no misunderstanding . . . the Court intended by the order of March 10, 1976 to adopt the concepts suggested by the plan of the Educational Task Force of the Dallas Alliance. The staff of the school district shall take these concepts and adapt them to fit the characteristics of DISD. The Court recognizes that during this process, a certain amount of flexibility is necessary. The Court expects the school district to put into effect the concepts of the Dallas Alliance plan. The specifics of the desegregation plan for the DISD will be embodied in the Court's final order

which will be entered in approximately two weeks)

- 3-24-76 — Dallas Independent School District, A Student Assignment Plan Carrying Into Effect The Concept Of The Educational Task Force Of The Dallas Alliance
- 3-26-76 — Dallas Independent School District's Motion to Alter or Amend March 10, 1976, Opinion and Order
- 3-29-76 — Defendant DISD's Resolutions and Proposal On Non-Student Assignment Concepts
- 4- 1-76 — Addendum To Student Assignment Plan by DISD.
- 4- 2-76 — (Mullinax, Wells, Mauzy & Babb) Plaintiffs' Motion for Attorneys' Fees and Costs
- 4- 5-76 — (Dallas Legal Services Foundation) Plaintiffs' Motion for Attorney Fees and Costs
- 4- 7-76 — Final Order . . . in order to carry out the concepts embodied in the desegregation plan of the Educational Task Force of the Dallas Alliance, the School Board of the Dallas Independent School District is ordered and directed to implement the following items: Major Sub-Districts . . . Student Assignment Criteria Within Sub-Districts . . . the K-3 Early Childhood Education Centers . . . the 4-8 Intermediate and Middle School Centers . . . 9-12 Magnets and High Schools . . . Special

Programs . . . Majority to Minority Transfer . . . Minority to Majority Transfers . . . Curriculum Transfers . . . Transportation . . . Changes in Attendance Zones . . . Discipline and Due Process . . . Facilities . . . Personnel . . . Accounting System and Auditor . . . Tri-Ethnic Committee . . . Retention of Jurisdiction: To the end that a unitary school shall be achieved by the DISD, the U.S. District Court for the Northern District of Texas retains jurisdiction of this case)

- 4- 7-76 — Supplemental Opinion and Order
- 4-15-76 — Supplemental Order correcting clerical errors in the student assignments made in the Final Order per the attached Appendix . . . incorporated in and made a part of the Final Order of April 7, 1976
- 4-20-76 — Notice of Appeal by Oak Cliff Branch and the South Dallas Branch of the Dallas N.A.A.C.P. from judgment entered April 7, 1976
- 4-20-76 — Supplemental Order sustaining Motion of Plaintiffs to Alter or Amend (the judgment entered April 7, 1976 . . . ordered that the . . . judgment, Sec. VI, subsection 2 on page 11, be and hereby is amended to read as follows: "2. English-as-a-Second Language (ESL) programming shall be expanded as rapidly as possible to serve all students who are unable to ef-

fectively participate in traditional school programming due to inability to speak and understand the English language. Emphasis shall be given to expanding ESL programming in grades 7-8 and 9-12")

- 4-22-76 — Defendant DISD's Notice of Cross-Appeal from April 7, 1976 Judgment
- 4-22-76 — Notice of Appeal by the John F. Kennedy Branch of the Metropolitan Branch of NAACP from the Student Assignment Portion of the final judgment entered on April 7, 1976
- 4-22-76 — Plaintiffs' Thelma Crouch, Ruth Jefferson, Bobbie Cobbins, Ludie Cobbin and Richard Medrano Notice of Appeal from Judgment entered April 7, 1976
- 4-23-76 — Intervenor, Donald E. Curry, et al Notice of Cross-Appeal from the Final Judgment-Order entered April 7, 1976
- 4-26-76 — Notice of Cross Appeal by Plaintiffs Tasby and Medrano from Student Assignment Portions of Judgment entered April 7, 1976; in filing this notice of Cross Appeal Ricardo Medrano withdraws his prior Notice of Appeal filed on April 22, 1976. (in forma pauperis)
- 4-30-76 — Plaintiffs' Brief in Support of Motion for Attorneys' Fees and Costs
- 7-20-76 — Order that the DISD pay the following named claimants the amounts set opposite their names: Sylvia M. Demarest (to

be paid to Dallas Legal Services \$66,792; Edward B. Cloutman III \$32,514 . . . that the motion of the DISD to set aside order taxing costs against defendants and in favor of plaintiffs is hereby denied

- 7-20-76 — Memorandum Opinion
- 8- 9-76 — Transcript of Proceedings (6) (six vols) held February 2, 1976. No exhibits
- 8- 9-76 — Transcript on Hearing on Motions held September 16, 1975
- 8- 9-76 — Transcript on Hearing held December 18, 1975. No exhibits.
- 8-18-76 — Supplemental Order Changing Attendance Zones of James Madison High School and Lincoln High School (. . . that the Court's Final Order of April 7, 1976, including Appendix A thereto, be and the same is hereby changed, altered and amended as follows: (a) Students in grades 9, 10, 11 and 12 residing in the Charles Rice Elementary School attendance zone are assigned to Lincoln High School and (b) Students in grades 9, 10, 11 and 12 residing in the Paul L. Dunbar Elementary School attendance zone are assigned to James Madison High School)
- 11- 1-76 — Transcript of Proceedings (3 vols) of Vol. VII
- 11-15-76 — Transcript of Proceedings (3 vols) Vol. VIII. No exhibits. (Held February 27, 1976)
- 11-19-76 — Transcript of Proceedings (3 vols of Vol. IX). (No exhibits) Held March 3, 1976.

- 1- 5-77 — Transcript of Proceedings (Vol. X) held March 5, 1976. No exhibits.
- 4-25-77 — Transcript of Proceedings of Hearing of Defendants' Motion for Approval of Site Acquisition, School Construction and Facility Abandonment held February 24, 1977.
- 10-26-77 — Argument and Submission, United States Court of Appeals for the Fifth Circuit.
- 10-29-77 — Motion (of Curry, et al) to File Post Submission Memorandum on the Issue of the Law of the Case
- 4-21-78 — Opinion of the United States Court of Appeals for the Fifth Circuit in Nos. 76-1849, 77-1752 and 77-2335
- 4-21-78 — Judgments of the United States Court of Appeals for the Fifth Circuit in each case
- 5- 5-78 — Petition for Rehearing (The Dallas Independent School District), United States Court of Appeals for the Fifth Circuit
- 5- 5-78 — Petition for Rehearing En Banc of Appellees-Cross Appellants Donald E. Curry, Et Al, United States Court of Appeals for the Fifth Circuit
- 5-22-78 — United States Court of Appeals for the Fifth Circuit's Letter Advice to Counsel in No. 76-1849 Denying Petition for Rehearing and Rehearing En Banc
- 5-26-78 — Motion for Stay of Mandate (The Dallas Independent School District), United States Court of Appeals for the Fifth Circuit

- 8-14-78 — Order of the United States Court of Appeals for the Fifth Circuit denying motion of appellees, Dallas Independent School District, et al., for stay of mandate.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EDDIE MITCHELL TASBY, et al.,
Plaintiffs

versus No. CA 3-4211-C

DR. NOLAN ESTES, et al.,
Defendants

Filed: Aug. 25, 1975

ORDER

On this the 25 day of August, 1975, came on to be heard the motions of Dr. E. Thomas Strom, et al., and of the Metropolitan Branches of the Dallas NAACP that they be permitted to intervene in the above styled matter and this Court having heard evidence and argument of counsel is of the opinion that they should be granted;

It is therefore ORDERED that Dr. E. Thomas Strom, et al., and the Metropolitan Branches of the NAACP be permitted to file their respective Pleas of Intervention and become parties in this cause.

/s/ W. M. TAYLOR, JR.
UNITED STATES DISTRICT
JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

(Number and Title Omitted)

Filed: April 30, 1976

PLAINTIFFS' BRIEF IN SUPPORT OF MOTION FOR
ATTORNEYS' FEES AND COSTS

* * *

[4] Finally, the plan adopted by the Court in its order of March 10, 1976, together with Supplemental Opinion and Orders dated April 7, 1976 and April 15, 1976 adopt and/or incorporate almost every precept proposed by plaintiffs for student assignment and non-student assignment features of the remedy. The DISD's contention that plaintiffs have not prevailed in this litigation is simply constructed out of whole cloth.

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

(Number and Title Omitted)

Filed: Jul. 20, 1976

MEMORANDUM OPINION

* * *

[3] The DISD suggests next that plaintiffs are not the prevailing party in this litigation. The Court finds this assertion untenable. Plaintiffs prevailed on the liability issue when the Court held on July 16, 1971, that the DISD was not operating a unitary school system. On appeal to the Fifth Circuit from the Court's Order of August 2, 1971, the United States Court of Appeals sustained the plaintiffs' claims and rejected every contention of the DISD other than faculty assignment ratios. Finally, the plan adopted by the Court on March 10, 1976, and Ordered to be implemented on April 7, 1976, and April 15, 1976, incorporated almost every precept proposed by plaintiffs for both student assignment and non-student assignment remedies.

* * *

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 76-1849

D. C. Docket No. CA3-4211-C

EDDIE MITCHELL TASBY and
PHILLIP WAYNE TASBY,

by their parent and next friend,

SAM TASBY, ET AL.,

Plaintiffs-Appellants

Cross-Appellees,

METROPOLITAN BRANCHES OF THE DALLAS
N.A.A.C.P.,

Plaintiffs-Intervenors

Appellants-Cross Appellees,

versus

DR. NOLAN ESTES, ET AL.,

Defendants-Appellees

Cross Appellants.

Appeals from the United States District Court for the
Northern District of Texas

Before COLEMAN, TJOFLAT and FAY, Circuit
Judges.

Filed: Aug. 16, 1978

JUDGMENT

This cause came on to be heard on the transcript of
the record from the United States District Court for
the Northern District of Texas, and was argued by
counsel;

ON CONSIDERATION WHEREOF, It is now here
ordered and adjudged by this Court that the judgment
of the said District Court in this cause be, and the same
is hereby, affirmed in part and reversed in part; and
that this cause be, and the same is hereby remanded to
the said District Court in accordance with the opinion
of this Court;

It is further ordered that defendants-appellees pay
the appellants' costs and appellants pay the costs of
appellee, Highland Park; all other parties are to bear
their own costs.

April 21, 1978

ISSUED AS MANDATE: AUG 15, 1978

A true copy

Test: EDWARD W. WADSWORTH

Clerk, U.S. Court of Appeals, Fifth Circuit

/s/ KIM B. DAVIS

Deputy

Aug. 15, 1978

New Orleans, Louisiana

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

(Number and Title Omitted)

Filed: Aug. 14, 1978

ORDER:

The motion of APPELLEES, DALLAS INDEPENDENT SCHOOL DISTRICT, ET AL. for stay of the issuance of the mandate pending petition for writ of certiorari is DENIED.

* * * *

/s/ GERALD B. TJOFLAT
UNITED STATES CIRCUIT
JUDGE

Quotation of language prepared by Petitioners Brinegar, et al.

"Memorandum Order filed July 16, 1971, is printed as Appendix A to Petitioners Brinegar's Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

"Opinion of the United States Court of Appeals for the Fifth Circuit dated April 21, 1978, is printed as Appendix C to the Petition of Nolan Estes, et al's Petition for Writ of Certiorari (pages 130a-146a)."

Quotation of language prepared by Petitioners Curry, et al.

"The opinions, orders and judgment of the District Court are set forth in Appendix "B" to the Petition for Certiorari of Nolan Estes, et al. (pages 4a-129a) and are reported in part at 412 F.Supp. 1192. The opinion of the Court of Appeals for the Fifth Circuit is set forth in Appendix "C" to the Petition of Nolan Estes, et al. (pages 130a-146a) and is reported at 572 F.2d 1010.

"The prior opinions, orders and judgment of the District Court which are relevant to the issues now presented are found at 342 F.Supp. 943 and consist of the following:

- (a) Memorandum Opinion (July 16, 1971);
- (b) Memorandum Opinion on Final Desegregation Order (August 17, 1971);
- (c) Supplemental Opinion Regarding Partial Stay of Desegregation Order (August 17, 1971)."

Quotation of language prepared by Respondents Tasby, et al.

"The opinion of the United States Court of Appeals for the Fifth Circuit in *Tasby v. Estes*, on appeal from the July 16, 1971 orders of the trial court, is found at 517 F.2d 92 (5th Cir. 1975)."

Quotation of language prepared by Respondents Tasby, et al.

"That a Petition for Writ of Certiorari was filed by Petitioners Estes, et al., from the opinion of the United States Court of Appeals for the Fifth Circuit cited immediately above."

Quotation of language prepared by Respondents Tasby, et al.

"That Certiorari was denied by the Supreme Court of the United States in *Estes, et al. v. Tasby, et al.*, and such denial is found at 423 U.S. 939 (1975)."

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EDDIE MITCHELL TASBY, ET AL

versus No. CA-3-4211-C

DR. NOLAN ESTES, ET AL

TRANSCRIPT OF PROCEEDINGS

VOLUME I

Filed: August 9, 1976

* * * *

[60] DR. NOLAN ESTES,
one of the Defendants, being duly sworn, testified as
follows:

DIRECT EXAMINATION

BY MR. WHITHAM:

* * * *

[62] Q Now, with respect to those figures then in the intervening months between the August figures and the [63] December figures you lost what percent of your Anglo students?

A There was a loss of one percent in Anglo students between the August enrollment figure date and the December 1st date.

Q And with respect to the difference in student percentages between the August and December dates with respect to the black student population, what change occurred?

A There was more than a one and a half of one percent increase in black population between August and December.

Q And with respect to the Mexican-American population, did it change?

A There was four-tenths increase between the August and the December dates for Mexican-Americans.

Q Now, Dr. Estes, is Defendant's Exhibit Number 10 a copy of the Board of Education's Plan submitted pursuant to the Court's request?

A Yes, sir, it is.

Q And is Defendant's Exhibit Number 11 a copy of the Board's Plan submitted to the Court pursuant to the Court's request only reflecting the calculations based on the new student population figures we have discussed?

A Yes, sir, it is.

[64] MR. WHITHAM:

Judge, for the record we will introduce in evidence or offer in evidence Defendant's Exhibits 10 and 11.

THE COURT:

They are admitted.

Q Dr. Estes, again, directing your attention to paragraph 1.2 of the Board's Plan.

A Yes.

MR. WHITHAM:

For the record, Judge, I would like to have it so I don't search for the exhibit each time, can it be understood if we now refer to the Board's Plan we are making reference to Defendant's Exhibit Number 11 for point of reference in the record?

THE COURT:

Yes.

Q Directing your attention again to the Board's Plan, Dr. Estes, would you please look for the illustration of the percentages for the first grade? Do you remember where the first grade is located?

A Yes, sir.

Q And you have what percent of Anglo first graders in the District?

A At the first grade level we have 36.7 percent Anglos in the School District.

Q What percent of kindergarten students do you have in the District that are Anglo?

[65] A 34.8 percent kindergarteners are Anglos.

* * * *

[66] Q By the time they reach the eleventh and twelfth grades many times they have passed the compulsory [67] attendance age of going to school anyway?

A The largest dropout rate between the ninth and eleventh grades is when students reach the compulsory attendance age.

Q Now, in your mind, as an expert and administrator of the Dallas Independent School District and elsewhere have you been able to arrive in your staff at a projection as to what the total enrollment by race would be in the Dallas Independent School District in the year 1980 based on your experience as a school administrator in Dallas?

A Yes, sir, we make annual projections.

Q What is the projection of the ethnic composition of the Dallas Independent School District in 1980?

A Based on our projections which uses, of course, enrollment for the past five years, as well as other factors, we estimate that the percentage of Anglo enrollment in 1980 will be 26 percent of the total school population as opposed, of course, to the 41 percent at the present time.

Q All right. What will be your projected black enrollment in 1980?

A Our black enrollment in 1980 will be 57 percent as opposed to 44.5 percent at the present time.

Q What would be your projected Mexican-American [68] enrollment in 1980?

A Based on our projection the Mexican-American would represent 18 percent of our total enrollment in 1980 as opposed to 13.4 percent at the present time.

Q Dr. Estes, let us, before we go further with the Plan, in order that the parties might know and the Court, could you give me your experience as a school

man and school administrator since you became employed in the school business and please begin with your first employment in the school business and bring me up-to-date.

A My first employment was in 1950, '49 and '50 when I joined the staff of the Bruni Independent School District as a high school science and math teacher. I moved from there into the Service, and after receiving a master's degree at the University of Texas joined the staff at Waco.

Q You have a master's degree in what, Dr. Estes?

A In school administration.

I was in the Waco Independent School District as an elementary teacher and then later as a principal.

In 1959 I went to Chatanooga, Tennessee as the assistant superintendent for instruction.

In 1962 I went to St. Louis County, Riverview Gardens, as superintendent of the schools.

* * * *

[71] Q Dr. Estes, I will hand you what has been marked for identification as Defendant's Exhibit Number 13 and I will ask you if you can identify that as an exhibit representing historical enrollment in the Dallas Independent School District for the years given? Can you identify that exhibit?

A Yes, sir.

MR. WHITHAM:

Your Honor, we will offer in evidence Defendant's Exhibit Number 13.

THE COURT:

It's admitted.

Q Dr. Estes, please look at Defendant's Exhibit 13, in order to help the Court and the parties perhaps follow the calculations shown thereon, you have begun with the school year '69-'70, have you not, and ended with the school year 1975 as of October?

A Yes, sir.

Q That represents how many school years?

A That represents five school years.

Q Now, in making the calculations shown on the exhibit I noticed that there has been a subtraction of kindergarten students from each total figure shown, do you see that?

A Yes, sir.

* * * *

[76] Q And does Defendant's Exhibit Number 1 entitled Racial Composition reflect the racial composition on a map of the student population in the Dallas Independent School District as believed between black and white students?

A Yes, sir.

Q With respect to the color code, the orange color represents the location of black students in the year 1960?

A That's correct.

Q The yellow colored area on Defendant's Exhibit Number 1 represents the location of white students in 1960?

A That is correct.

Q Now, that far back separate figures were not kept with respect to Anglos as distinguished from Mexican-American students, were they not?

A That's right.

Q Do you know of your own knowledge the approximate composition of the Mexican-American student body in that year?

A The only difference in that map would be what [77] we call Little Mexico or Short North Dallas around the Travis Elementary School and one section around Juarez and Douglass in West Dallas.

Q To that extent, the Mexican-American population would be shown in the yellow area on the map?

A That's correct.

MR. WHITHAM:

Am I free to move up here, Your Honor?

THE COURT:

Oh yes, sure.

Q Did I also ask you, Dr. Estes, to cause to be prepared that would reflect the current residential patterns of the students within the Dallas Independent School District?

A Yes, sir.

Q And is that shown on Defendant's Exhibit Number 2?

A It is.

Q And by students, we're talking about those enrolled in the school, not those of school age who

might reside within the Dallas Independent School District?

A That's right.

Q Now, with respect to the color codes shown on Defendant's Exhibit Number 2, what student body population is reflected by the area in yellow?

A The only remaining predominantly white [78] population.

Q What student body population is reflected in the area colored pink?

A That is a naturally integrated area representing minority and Anglo.

Q And what is the student body population reflected in the dark orange color shown on Defendant's Exhibit 2?

A The dark orange represents predominantly Mexican-American or black enrollment.

Q Now, when we get to parts of further explanation of the School District's Plan and we happen to refer to those parts of the Plan and I believe it's part three on the integrated map, if I follow my index correctly. We have referenced generally to the area shown in pink on Defendant's Exhibit 2, is that correct?

A That is correct. I believe it's area four, the naturally integrated areas.

Q The naturally integrated areas, I'm sorry.

In further testimony you give with respect to the School District's Plan, when we talk about the pairing and clustering of the remaining Anglo students or the predominantly Anglo areas with certain minority areas, what area or color code on the map has reference to the location of those Anglo students?

[79] A Two areas, the remaining white population is reflected by the yellow colored area —

Q Let me stop you right there. Then in that part of the School District's Plan pairing the predominantly Anglo area, this map and its yellow area shows the location of those Anglo students?

A Yes, that's right.

Q When there is a pairing of the Anglo students under the Board's Plan with certain minority areas of the School District, those minority areas paired with the yellow area are found in various locations within the dark orange area, is that correct?

A Yes. You skip over the naturally integrated areas to the orange areas.

Q All right. So that when you pair the remaining Anglos with certain minorities you have in effect paired students who are Anglo in the yellow area with certain minority students in the —

A Predominantly minority area.

Q — predominantly minority areas shown in dark orange and you've skipped over the naturally integrated area shown in pink that lies between them —

A That's correct.

Q — is that correct?

Now, when we get to that part of the [80] School District's Plan dealing with those minority schools that will remain one race schools, those remaining one race schools will be found in varying parts of the color code orange on Defendant's Exhibit Number 2, is that correct?

A That's correct.

Q Did I ask you to cause to be prepared a map —

THE COURT:

Let me ask a question with reference to — Dr. Estes, to Exhibit Number 1, Map Number 1: Do you have the census figures for that year nineteen —

THE WITNESS:

Yes, sir, we have the scholastic census for that year.

THE COURT:

Do you know approximately what it is?

THE WITNESS:

No. Offhand I don't have that information. We can get that, however.

THE COURT:

All right, go ahead.

Q Did I ask you to cause to be prepared a map that would reflect the growth for a three-year period broken down by 1960, 1965 and 1970 of the growing black scholastic population within the Dallas Independent School District?

A Yes, sir.

Q Then did I ask you also to cause to be made on [81] that same map a showing, graphically, of areas today that in 1965 were composed of at least twenty-five percent black students?

A Yes, sir.

Q And did I also ask you to show on that map the areas in 1975 that are at least twenty-five percent Mexican-American in the Dallas Independent School District's scholastic population?

A Yes, sir.

Q And did I also ask you to show on that map the area that the School District finds to be at least twenty-five percent minority combined, that is twenty-five percent of either black or Mexican-American or both?

A Yes, sir.

Q Now, with respect — is all of that reflected on Defendant's Exhibit Number 3?

A Yes, sir, it is.

Q Now, in using the figures we there talk about — again, we are talking about students attending the Dallas Independent School District, not total eligible scholastics by reason of age or the right to attend school.

A That's correct.

Q Now, with respect to the black population on Defendant's Exhibit Number 3, those areas shown as green [82] on Defendant's Exhibit Number 3 represent the location of the black population in 1960, is that correct?

A Yes, sir, that's right.

* * * *

[85] MR. WHITHAM:

This is known as the John Field attendance area, should you need to know that.

And which particular schools are served —

THE WITNESS:

That would be the John Ireland-Hawthorne area.

Q (Continuing by Mr. Whitham) So by looking at this map you can show growth patterns of minority areas as shown on Defendant's Exhibit 3 as they now might be reflected in total color schemes on Defendant's Exhibit Number 2?

A That's correct.

MR. WHITHAM:

We offer in evidence Defendant's Exhibits 1, 2 and 3, Your Honor.

THE COURT:

They're admitted.

MR. WHITHAM:

Your Honor, if I failed to do so, I offer in evidence Defendant's Exhibit 13, the historical enrollment pattern. Mr. Cloutman was kind enough to tell me I had not offered that.

THE COURT:

All right. I thought it was admitted, but it is admitted again if —

Q Now, Dr. Estes, with your testimony today together with the historical enrollment patterns of the

School District, Exhibit 13 together with the maps, Plaintiff's Exhibits 1, 2 and 3 (sic) that will contain the evidence of the change in ethnic patterns within the [86] Dallas Independent School District showing the matter with which we are concerned?

A Yes, sir, over the past fifteen years.

* * * *

[103] Q And all that anyone would need to do is take [104] the material compiled in the Board's Plan and compare the numbers on Defendant's Exhibit 5 and they would be able to tell what students from what schools are to go to school together under the Board's Plan?

A That's correct.

MR. WHITHAM:

Does the Court have any question about the numbering system or the assignments?

THE COURT:

No.

Q Now, with respect to fourth and fifth graders in the naturally integrated area, the yellow hatched area, those students continue to attend their neighborhood schools, do they not —

A Yes, sir.

Q — under the Board's Plan?

A Under the Board's Plan they would continue to go to their neighborhood school as they do now.

Q So the Board's Plan does not contemplate transporting children or reassigning them if they are within the yellow hatched or naturally integrated area?

A Yes, the Board's Plan doesn't disturb any of the naturally integrated areas in the city.

Q Therefore, if a child attends school in what is a pink area on Defendant's Exhibit 2, that child is not involved in further transportation and the concept of the neighborhood school is preserved in those parts [105] of the School District colored in pink?

A Yes, sir, because they're already integrated.

Q All right —

THE COURT:

Then the neighborhood school concept is preserved in grades K through 5?

THE WITNESS:

Through six.

THE COURT:

Six.

THE WITNESS:

Or seventh in some instances.

THE COURT:

I see.

MR. WHITHAM:

If the Court will look in the School Board's Plan of the integrated neighborhoods of part four, Your

Honor, you will see that some of those buildings currently serve even K-7.

THE COURT:

I see.

MR. WHITHAM:

In that grade configuration, whatever it is, continuous.

THE COURT:

I see.

MR. WHITHAM:

If that answers that question.

THE COURT:

I see.

Q Now, with respect to fourth and fifth graders in the part of the Board's Plan known as part seven described as a certain part of the predominantly minority parts of the School District, you have reference to an area shown on Defendant's Exhibit 5 and 6 that is green hatched and brown hatched, is that correct?

[106] A Yes, sir, that's correct.

* * * *

[218] CROSS EXAMINATION

BY MR. CLOUTMAN:

* * * *

[278] Q So you have thirty-two hundred and fifty minority students you anticipate will be integrated on what basically is a voluntary basis next year?

[279] A In the initial implementation of the Plan.

Q And you expect that to increase to ten thousand?

A We would expect that to increase considerably over the next three years; as much as ten thousand, yes.

Q So by my rough subtraction that leaves you with roughly forty thousand minority students not involved in any integrated atmosphere?

A That would be close to correct.

MR. CLOUTMAN:

Excuse me, Your Honor, one second.

THE COURT:

Okay.

Q (By Mr. Cloutman) Doctor, just for my own purposes and for comparison, can you or do you know the Dallas Independent School District's ethnicity by population as opposed to student enrollment?

A I don't. I'm assuming it's about twenty-five or thirty percent black, ten to fifteen percent Chicano and the remainder Anglo.

Q Would you estimate it would approximate the population breakdown by ethnicity of the City of Dallas?

A That's right.

MR. CLOUTMAN:

Thank you. I don't think we have any further questions at this time, Your Honor.

* * * *

[399] RE-DIRECT EXAMINATION

BY MR. WHITHAM:

* * * *

[404] Q Now, the Dallas Independent School District from the maps in evidence appears to be something less than a rectangle. Do you have any idea of its dimensions from its furthest northernmost point to its furthest [405] southernmost point?

A It goes to the County line in the north and all the way to the County line in the southeast or approximately there and this distance is approximately thirty-five miles from the northwest to the southeastern part of the district.

Q And do you know approximately how far it is from what's called the southwest quadrant in Oak Cliff just below Hulcy Junior High School to the northernmost point near the Dallas County line?

A Yes, that's about twenty-five miles.

Q Do you know the approximately total square miles in the Dallas Independent School District?

A Yes, sir. We occupy three hundred fifty-one square miles within the nine hundred square mile County.

Q Now, you do not have an actual population census of just the Dallas Independent School District, do you?

A No, we do not.

Q Do you know the approximate population of the City of Dallas as a total?

A As I remember, eight to nine hundred thousand is the population of the City of Dallas.

Q And of that total do you know what percent you serve as to that part of the Dallas Independent [406] School District lying within the City of Dallas?

A I would estimate we serve eighty percent of the students living in the City of Dallas and in our school district.

Q The boundaries of the City of Dallas and the Dallas Independent School District are not conterminous are they?

A Unfortunately they are not conterminous.

Q Please turn to Defendants' Exhibit Number 12, if you would, to page 1 and let's be sure we are together as to certain confusion about the number of so-called one race schools that will remain under the board's plan.

A All right.

Q As I look at page 2 of Defendants' Exhibit Number 12 under the third column predominantly

minority schools, I see that there are forty-two attendance zones that will remain predominantly one race.

A That's correct.

Q Do you see that figure?

A Yes, sir.

Q We are agreed there will be forty-two attendance zones that remain one race under the board's plan, is that correct?

A Correct.

* * * *

TRANSCRIPT OF PROCEEDINGS

VOLUME II

(Number and Title Omitted)

Filed: August 9, 1976

* * * *

[2] KATHLYN GILLIAM,
called as a witness in behalf of the Plaintiffs, being duly sworn, testified as follows:

* * * *

[49] CROSS-EXAMINATION

BY MR. WHITHAM:

* * *

[54] Q You were just trying to give the Judge your experiences, not the experiences of the Tri-ethnic Committee?

A Correct.

Q Now, how many times have you run for the board of education of the Dallas Independent School District?

A I ran twice, once unsuccessfully.

Q And then following the establishment of single member trustee districts you were elected, were you not?

A Exactly.

Q And you have had for some time an interest and concern for education in Dallas for its children, is that correct?

A That's been my life's work as an adult.

Q And you have sought to carry out that work as a member of the board of trustees, have you not?

A Correct.

Q And when you would seek the office of trustee in elections, would you make it known to voters your concerns about education in the Dallas Independent School District?

A Correct.

* * *

[57] Q Would like any of your rights to be a policy [58] maker for the Dallas Independent School District taken away from you?

A I would not, not only my rights as a board member but any of my rights, my rights as a citizen.

Q Your rights as a board member?

A Yes.

Q You don't want anyone to take those away from you, do you?

A Correct.

Q No one, is that correct?

A That's correct, I do not want my rights as a board member or any other rights taken away from me.

Q You want to exercise fully your rights as a trustee of the Dallas Independent School District?

A Right.

Q And are you satisfied that you will continue to exercise your policy making obligations on the Dallas Independent School District as your good conscience dictates?

A Yes.

Q How is the board now composed racially? Could you describe the racial composition of the board?

A Two blacks, one Mexican-American and six Anglos.

Q Now, do you actively speak up when board [59] policy is under consideration on behalf of black citizens within the Dallas Independent School District?

A Not only do I speak up on behalf of black citizens in the DISD, I speak up in terms of what I think is just and fair and right.

Q All right. Who is the other black member of the board?

A Dr. Emmett Conrad.

Q Does Dr. Emmett Conrad also speak up for the black patrons of the DISD?

A Yes, and others, too.

Q Others, too?

A Yes.

Q Who is the Mexican-American member?

A Roberto Medrano.

Q Does he speak for the Mexican-American patrons of the Dallas Independent School District?

A And others.

Q And others?

A Yes.

Q Do the white members of the board of education speak up for their constituents and patrons of the Dallas Independent School District?

A And others.

Q And others?

[60] A Yes.

Q On the board of education at this time there is a good bit of give and take to resolve the issues of the day, is there not?

A Quite a bit of conversation.

Q That's right. Now, not all views that any one trustee ever advances at any given point always carries the day, does it?

A That's the idea of democracy.

Q You win some and you lose some?

A Yes.

Q Right.

A Yes.

Q Now, to the extent that you win some and you lose some that's how public bodies' policy making decisions ultimately get carried out, is it not?

A That's correct.

Q In your judgment do you feel that you are as active and ardent a spokesman for the black position in Dallas as anyone you can conceive at this time?

A Well, I would not like to compare myself to anybody else.

Q Do you feel that you're an effective spokesman for the black patrons of the Dallas Independent School District?

[61] A I feel that I do my best.

* * * *

[257] JOSE A. CARDENAS,
the witness having been duly sworn by the Court,
testified on his oath as follows:

* * * *

[326] CROSS-EXAMINATION

BY MR. MARTIN:

* * * *

[333] THE WITNESS:

Counselor asked the question in deposition, would fifty percent constitute a significant proportion? He is interpreting my answer, which was "yes", to mean that fifty percent of the people in Dallas are satisfied, or the minority people or the Mexican American people in Dallas, or the ones I talked to are dissatisfied with the School and fifty percent were not. No question was asked that I can remember, and certainly not the one that he has read on three occasions, what was the number of people or the proportion of the people that were satisfied and dissatisfied? The question was, would fifty percent of the people be statistically [334] significant? And my answer was, yes. Now, he is interpreting this to mean that I said fifty percent of the people were satisfied and fifty percent of the people were dissatisfied and I will not admit to this, sir. Because in what he has read, anyway, I did not make any statement as to the percentage of people dissatisfied and satisfied. It was a question as to whether fifty percent would be statistically significant.

MR. MARTIN:

We'll offer in evidence, Your Honor, pages 31, 32, and 33. And to save time, I won't read them at this time, but may they be considered to be a part of the record?

THE COURT:

Yes, they will.

Q (By Mr. Martin) Doctor, do you have any difficulty in separating your own ethnicity from your professional judgments and opinions?

A I would imagine so, sir. I think that any person is completely schizophrenic who can separate one aspect of his personality —

Q It would be a hard thing to do; is that right, sir?

A Yes sir.

Q Now, as I understand you here in your testimony here this morning, based on your interviews of the patrons, [335] based on your interviews of the School District personnel, based on your visit to two schools — two or three, and based on your examination of these documents that have been discussed here you found that the Bilingual Program here is relatively innovative, with many desirable traits and accomplishing desirable results; is that correct?

A Yes sir.

Q Were you a little surprised to find that?

A No sir.

Q When you consider what you have thought of such programs and the dealing with the uniqueness of minority students by school people, what you have thought of that in the past, does what you found here seem a little inconsistent with your previous judgments about that matter in general?

A No sir.

Q Dr. Cardenas, I will refer you to — you are the same Dr. Cardenas that submitted an education plan for the Denver Public Schools that was filed in the Keys case?

A Yes sir.

Q May I refer you to some statements in that report prepared by you? On page 6 of it — I'll show you any of these if you can't recall what you said — you said: The dismal failure of our schools in the education of minority children can be attributed to the inadequacy of the [336] instructional programs.

Do you still believe that?

A Yes sir.

Q And at another place in your proposal, you had this to say: That the incompatibility between minority children and most school systems can be summarized in three generalizations: One, most school personnel know nothing about the cultural characteristics of the minority school population.

Right, so far?

A Yes sir.

Q Two, that few school personnel who are aware of these cultural characteristics seldom do anything about it.

Do you recall that and that was your opinion?

A Yes sir.

Q Number three, on those rare occasions when the school does attempt to do something concerning the culture of minority groups, it always does the wrong thing.

Do you still believe that?

A Yes sir.

Q Do you think we're doing the wrong thing here in Dallas?

A I think you're doing some things right in Dallas. I

don't think it's universal and applicable to all of the minority population in Dallas.

[337] Q And you came to Dallas to make this investigation with these things in mind: You thought that school personnel — the few school personnel who are aware of these cultural characteristics seldom do anything about it and that on those rare occasions when they do attempt to do something, they always do the wrong thing; you thought that when you came to Dallas?

A Yes sir.

Q And you weren't surprised when you found a pretty good program here?

A I wasn't surprised when I found some elements of a good program here, no sir.

Q Your main criticism, as I understand you, is there is just not enough of it? What you saw is good, but there's not enough of it; is that right?

A It's not involving enough kids, there's not enough of it.

THE COURT:

I didn't get your answer.

THE WITNESS:

It is not involving enough children and it is not extensive enough.

Q (By Mr. Martin) What there is of it is good?

A Yes sir.

Q Now, you spoke of the underachievement or under-performance —

MR. MARTIN:

Just a few more minutes, Judge.

[338] Q (By Mr. Martin) — the underachievement or underperformance of minority children in Dallas.

A Yes sir.

Q Now, in making that judgment about underachievement and underperformance, I would like to ask, compared to what?

A To the white Anglo population of the Dallas Independent School District.

Q Now, can you tell me this —

A And to national norms.

Q And to national norms, that's what I wanted to ask you about.

Do you believe that the minority children in the Dallas School District, that the performance of minority children in the Dallas School District is on a par with the performance of minority children on a national basis?

A Yes sir.

Q Yes sir.

You spoke a few minutes ago about dropouts and the reason for dropouts. Certainly the kind of programs in the schools doesn't serve as the only reason for dropouts, does it?

A Sir?

Q The kinds of programs that schools offer, that is not the sole reason for dropouts?

A No sir.

* * * *

[340] Q Yes sir.

A But school has a lot to do with it.

Q Does home have something to do with it?

A Both home and school have something to do with it.

Q The problems attendant to arriving at school, the sheer getting there, does that have something to do with whether a child drops out of school?

A Yes sir.

Q Does the fact that a child feels uncomfortable in a given student body have anything to do with whether he might drop out or not?

A Yes sir.

Q Does his problems with law enforcement have anything to do with whether he might drop out of school?

A It may.

Q Does his desire to go to work at a particular job he has in view have anything to do with whether a child drops out of school?

A It may.

Q Yes sir.

To sum up, Dr. Cardenas, then we're agreed that what's being done here is good but you're saying there's just not enough of it; is that the substance of it?

A Yes sir.

MR. MARTIN:

Thank you, sir.

* * * *

TRANSCRIPT OF PROCEEDINGS

VOLUME III

(Number and Title Omitted)

Filed: August 9, 1976

* * *

[2] CHARLES V. WILLIE,
called as a witness in behalf of the Plaintiffs, being duly
sworn, testified as follows:

* * *

[126] CROSS EXAMINATION

BY MR. MOW:

* * *

[134] Q What transportation patterns did you consider?

A I did not consider transportation particularly. I considered them in general and the general consideration is that transportation is an essential component of urbanization. People drive long distances to work, they drive long distances to worship. They drive long distances for recreation. Therefore, I could not see any reason why traveling would be contraindicative for getting a quality education.

Q Did you consider how the roads are laid out within Dallas and how much time it takes to get from one part of town to another?

A In my driving around the city I did make observations on the road systems in Dallas in which I found to be exceedingly good compared with the road system in Boston.

Q Did you make any time studies as to how long it would take to get from certain areas of the city to certain other areas?

A Yes, I made time studies of how long it would take to go from the tip end of North Dallas to Oak Cliff and I found that to be an exceedingly long distance. But, I don't think that the School Districts have to be laid out that way.

* * *

[148] CROSS EXAMINATION

BY MR. DONOHUE:

* * *

[151] Q That's all I was trying to get at.

A Yes.

Q All right. Now, Dr. Willie, also in the course of your testimony you talked about a learning experience or learning experiences and life experiences. I take it that you would agree that it is a useful learning experience for middle-class, or if I can use it, I think it's a

sociologist term, the higher socioeconomic people would have the experience of going to school and living with people in the lower socioeconomic groups, is that a correct statement?

A The correct statement would be that people in any class level ought to experience all sorts and conditions of people which characterize the metropolitan area in which they reside.

Q So that works both ways is what you're saying?

A That's right, it works both ways.

Q You also in the course — well, let me finish it. You would agree then it is — assuming a substantial middle-class, if you will, disregard whether they are black or white or Mexican-American, it would be useful for these people, all people to experience each other's experiences in the course of their educational career and that would mean that middle-class people, middle-class experience would be useful to lower socioeconomic [152] class people, is that correct, regardless of race?

A That's correct and vice versa.

Q All right. Let me ask another question on it. I wasn't clear on this. In your testimony were you proposing that assuming whites were to leave the system, I gather it was your testimony that that should not be or that no attention should be paid to that in terms of the desegregation plan, the concept or phenomenon of white flight or out migration of whites should be disregarded?

A My position was that where people live is within the realm of private behavior and is not a matter before the Court.

Q All right. And I believe you distinguished, if I understood you correctly, two forms of private decisions, one would be out migration that would be physically moving and another would be just a decision to go to a private institution?

A That would be in the realm of private decisions.

Q All right. Now, if that phenomenon were to occur after a Court-ordered plan based on certain percentages of blacks, whites and Mexican-Americans and there should be a severe reduction of the white population, just assume with me for a moment, would it be your view that at a subsequent time the plan should be [153] redrawn so as to create this mix of populations?

A That's a conjecture? I cannot respond to because other possibilities are also there, that whites will move back to the city.

Q Well, assume they didn't.

A I can't answer that question on the basis of that assumption.

Q But you're not in a position to testify that you would continually revise the plan at some later date based on the out migration of blacks, Mexican-Americans and whites?

A That's a conjecture that I can't answer. I have no idea what the actual facts might be.

Q So a change in percentage in the proportionate mix of a school population would not be something that would be looked at in that monitoring system that you were talking about in terms of revising the plan?

A It could be a responsibility that the Court would ask the monitoring system to take into consideration.

Q In an effort to make sure that all children experience this we could conceivably find a redrawing of districts at some future time on some reasonable basis?

A Well, the reason why I have difficulty answering [154] is a basic philosophical answer but I think it's helpful because eventually the categories which are now the subject of the suit may become irrelevant, that is race and ethnicity could eventually become an irrelevant category.

Q Because the school becomes a unitary school system?

A Because the school becomes a unitary school system, the population becomes unitary and these categories would no longer be significant categories. That is a possibility.

Q For example, the white population might be reduced to fifteen percent and it would no longer be significant?

A No. The point I am making is being white, being Anglo may essentially become a nonsignificant characteristic of a human being.

Q Now, changing the line of thought, I think I understand, Dr. Willie, in the drafting of a desegregation plan do you believe that the Court should take into consideration such elements as the concept of the city and its planners in dealing with given areas of the city, should that be in any way relevant to the preparation of a desegregation plan?

A Partially.

[155] Q All right. Now, I think you anticipate me, in the area of the city that I am concerned with there is a

serious effort, and this is not in evidence, but assume with me for the moment that there is a serious effort being made by the city with the support of the City Council and with the support, I believe, of most leaders of communities of all races to reverse or somehow handle the problem of what sometimes is called "urban blight", aging of neighborhoods and so forth. Would that in any way affect your thinking about how to set up a desegregation plan? Would that activity in any way affect your thinking?

A It would depend upon whether or not that activity interfered with the constitutional requirement for operating a unitary school system.

Q You would, of course, put a limitation on the law is what you're saying, but let's suppose for a second that the people — well, do you agree with me that the school system is a community? I believe the sociologists say that it is the system that reflects the attitude of the people, where they decide to live in given areas such as the police department and road systems and similar type of systems, would you agree with me?

A Yes, the school system is an institution which [156] is sanctioned by the community to fulfill community goals.

Q Now, suppose that the decision is made by the city planners that the retainage of middle-class people in a given area with the skills they have in government and all kinds of skills is a benefit to making a multi-racial multiclass socioeconomic status area, would you disagree with that as a city planning concept?

A I would not disagree with that so long as that

decision did not encroach upon the rights and prerogatives of people who are not middle-class.

Q I understand. You would also agree that the retainage of some middle-class participation because of their skills they could lend in turn to other groups and of course the other groups contribute to the middle-class, we understand that would be a valid planning goal for the City Planning Department trying to reverse deterioration of a neighborhood.

A My basic belief is that a valid city planning goal is to have diversified communities consisting of a range of social classes and range of races and range of age categories.

Q Now, if an expert in this area were to say that he needed to provide — he needed to assure that the middle-class people do not leave the area if he could you would not, in order to keep their skills in [157] the area, this would not be something that you would object to, leaving aside the constitutional question, is that correct?

A To the extent the middle-class people would contribute to the diversity which is the overriding goal I would not object to it.

Q Maybe I could put it in simple terms. Desegregation through changes in housing patterns is a desirable goal?

A That's a different question than the earlier one.

Q Yes, it is. Okay, let's go back to the one I raised in talking about reversing the problem of neighborhood deterioration. You would agree, I assume, that desegregation or integration of the area with racial balance would be a desirable planning goal?

A Desegregation of the schools would be a desirable planning goal.

Q And also of the housing patterns?

A Maintaining diversity within the residential community is a goal or desirable planning goal that are designed and are interconnected but one is not necessarily subassumed under the other.

Q In drafting or drawing a desegregation plan the drafters could take into consideration the desires [158] of the city, the planning goals of the city in drawing this plan, could they not?

A I should think they could and vice versa.

Q Dr. Willie, there was one more line of questions. Would you agree that there are professionals that disagree with some of your concepts about the handling of or drawing of plans?

A I have not seen any in print, any statement about the drawing of school desegregation plans that disagree with the guidelines I set forth here yesterday.

Q All right. Now, would you agree that there could be some difference of opinion among professionals, objective professionals of the interpretation of those guidelines?

A Yes, that's always a possibility.

Q So you would not take the position that all of the interpretations you have given in your testimony are the only ones that would be presented by experts or professionals?

A No, there are experts probably that might give different interpretations.

Q It wouldn't surprise you if in these proceedings

there are experts that might have some different interpretation?

A It would surprise me if other experts have [159] other interpretations about how to go about drawing a desegregation plan to achieve a unitary school system.

Q Well, let me ask you, you said yesterday that you had done a study of out migration of whites from central cities. I believe you testified that the effect of a desegregation plan or student assignment plan had no bearing on this or did you testify that student assignment was not a factor in out migration?

A I testified that student assignment — the amount of out migration that would be attributed to a school desegregation plan was modest and accounted for less than one-half.

Q My point is that you even agree, do you not, that some out migration may be caused by the fact of a student assignment plan?

A Yes, sir.

Q You also agree, I take it, that some decisions to enter private institutions, which is not necessarily an out migration phenomenon, may occur as a result of a student assignment plan?

A Yes.

Q All right. And would you agree, sir, that the proximity of other school districts to the existing district might have some bearing on this out migration? If you like, turn and look at the map.

[160] A No, I was smiling because what is not an issue in the Court is what might happen to people who eventually realize the benefits and effects from living in a diversified community. I cannot predict.

Q I was making the point that the close proximity of other districts could have an influence on the decisions.

A To the extent that people in the city begin to realize living in a suburban homogeneous white area is a deficient district.

Q This could be an influence upon their decision, isn't that correct?

A I wouldn't wish to offer a judgment on how we might perceive that deficiency with that kind of homogeneous living.

MR. DONOHOE:

Pass the witness.

* * * *

[191] YVONNE EWELL,
called as a witness in behalf of the Plaintiffs, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. DEMAREST:

* * * *

[192] Q Could you briefly describe to the Court the positions that you have held? First of all, how long have you been employed in the Dallas Independent School District and what positions have you held?

A I am in my twenty-first year as an employee of the Dallas Independent School District coming here in 1954. I served as an elementary teacher, secondary [193] teacher and elementary school principal and elementary consultant and coordinator for the curriculum development, coordinator for the black studies, coordinator for the ethnic studies, affirmative action and secondary reading.

Q And that covers a period of some twenty-one years?

A Twenty-one years.

Q Would you please describe for the Court your present position and your job duties in that position?

A My responsibilities as Deputy Superintendent for Instructional Services involve many different kinds of things. Firstly, I have the responsibility of coordinating the staff development activities for all of the supervisory personnel in the Dallas Independent School District. I have the responsibility for coordinating the textbook adoption process. I have the responsibility for coordinating the reading effort that we are now approaching in the District and many other kinds of activities as Assistant Superintendent for Curriculum and Instruction in the District.

Q All right. Now, Plaintiff's Exhibit 15 which you have produced for the Court pursuant to subpoena is labeled *A Study of Racial Bias in Social Studies Textbooks*, is that correct?

A That's correct.

[194] Q Would you please explain to the Court how this study came about and the extent of your participation in that study?

A This study came about in 1971 or '72 when the American Jewish Committee was convening study groups all over the United States and Dallas was among those cities that decided that it wanted to examine textbooks currently in use in the school system. A request was made through Dr. Benson and Dr. Estes for me to participate as the official representative of the School District. I did that. We worked the years of '71, 2, 3. I did not finish the work. The committee was reconstituted in '73-'74 and we presented the report to the School Board in the early spring of '74.

Q Could you please explain to the Court the nature of your participation in that study?

A My participation essentially involved presenting to the people involved in the study, there were some fourteen of us lay persons, Protestants, Catholics, Jews, black, white, certain kinds of materials that would raise the consciousness of the people regarding the nature of racism in textual materials and textbooks. In particular give them tools, analytical tools for looking at those materials. And then I did define supplementary materials that would make up for the [195] deficiencies that we find in the materials.

* * * *

[202] Q Were those the major conclusions that your study group reached?

A I would say that they were.

Q Were there any other conclusions that your

group reached that you have not yet shared with the Court?

A Not to my memory at this point.

Q All right. Did your study group make any recommendations to the Dallas Independent School District in terms of remedying any of the problems or deficiencies which were found in the textbooks that are currently being used?

A Yes, following a meeting of the Research and Evaluation Committee and after approval by the Board we have done some things to remedy the situation we find. We have had conferences, of course, with the top administrators in the District, specifically those people in Staff Development, the Director of Personnel, a leader in secondary education and the Affirmative Action office.

We are presently developing a media presentation for training teachers and staff. That presentation will go beyond social studies to include [203] English, language arts curriculum, science and music and other curriculum areas where the same kinds of deficits appear.

We utilize this material to some extent in training student teachers from North Texas State University since Dr. Richard Simms, a professor of North Texas, did participate in the study.

We've had meetings with community groups in order to involve them in understanding the nature of bias in the materials and therefore we ourselves then continue to teach that bias.

We have established further criteria to establish the

validity of the textbooks that we are now adopting in the Dallas Independent School District. About a month ago I conducted a training session involving principals, teachers, parents and students of about two hundred.

An article based on our study has appeared in Phi Delta Cappa, a national publication.

We are planning a spring conference involving a major publishing company so they themselves are conscious of the needs to change.

One of the books that we examined, one of the companies has already asked for our study and is therefore making those changes based upon the study.

[204] We have submitted the report to the State Board of Education and to the Commission of Education.

I think those are some of the most significant things that we have done since the study has been completed.

Q You mentioned something about the same kind of deficits may appear in other curriculum areas.

A Uh-huh.

Q What did you have reference to by that statement?

A Well, I indicated that we focused on social studies materials which we analyzed those books, specifically page by page and identified the kinds of problems which we found. We classified those as co-missions, meaning that there are basic distortions or inaccuracies and omissions. We did not do that for the other kinds of books. For instance, the English books, although we do know if we had the time, we need to do the same thing and I am suggesting that the media presentation will

begin to address the kinds of deficiencies found in other materials.

Q In terms of the effect of this study on the use of the textbooks that were specifically examined by your committee, can you tell the Court whether or not these books are still in use?

[205] A The books are still in use in the District.

* * *

[206] Q All right. One final question, Mrs. Ewell, you stated or I'm not sure if you stated that all of the textbooks that your committee examined are still in use, are they all still in use?

A They are all in use. If I might add to my testimony, I was on the Textbook Committee when we selected these books and there were no other books any better than these. We have no textbooks available that are nonracist so we need to examine any books that we use.

MS. DEMAREST:

We will pass the witness, Your Honor.

MR. WHITHAM:

I know these are difficult cases to organize, Your Honor, and I would simply state that Counsel for the Defendants have not had an opportunity to know that Plaintiff's Exhibit 15 would be introduced. We had asked counsel for the Plaintiffs earlier to provide us with a list of those witnesses, who would be testifying as

alleged experts and a summary of what they would testify to and introduce. And Mrs. Ewell's testimony was omitted from that outline. I simply make that known to the Court so the Court will know we have not had an opportunity to know the nature of Mrs. Ewell's testimony by reason of the discovery process.

* * *

[208] CROSS EXAMINATION

BY MR. WHITHAM:

* * *

[213] Q If a school district elects not to use any of those books, there is no Texas book authorized by law in Texas?

A That is correct.

Q Now, then, did your study then — you then began to describe the method of study, as I understand it, and you wanted to study racial bias in just the social science books for the fifth, sixth and eighth grades pursuant to the request of the Dallas Chapter of the American Jewish Committee, is that right?

A That is correct.

Q And it was limited to that area in the study, is that correct?

A That's correct.

Q Now, at the time the study was requested by the Dallas Chapter of the American Jewish Committee,

what was your role in 1971 with the Dallas Independent School District?

A In 1971 I was working with ethnic studies in the Dallas Independent School District.

Q So it was a part of your responsibility to be reporting to the Superintendent at that time concerning the matter of, perhaps, ethnic bias in textbooks at that time?

A That's right.

[214] Q Had you been given that charge by the Superintendent as part of your duties to report on ethnic bias in textbooks prior to the request of the Dallas Chapter of the American Jewish Committee in 1971?

A I had not been given that charge by the Superintendent, I would consider that within the purview of my responsibility, I had been doing that role.

Q Had you undertaken to perform that responsibility?

A That's right.

Q Had the Superintendent sought to stop you from carrying out that responsibility?

A That's correct.

Q Had he sought to stop you?

A Oh, no, he had not sought to stop me.

Q So you were working on the matter of bias in textbooks for the Dallas Independent School District with the approval of the Superintendent prior to the time the Dallas Chapter of the American Jewish Committee came forward with their request?

A That is correct.

Q Now, let's pass over the details of the study just a little bit and find out what happened to the study. As I understand it, the study that commenced in 1971 was submitted to the Board of Education of the Dallas [215] Independent School District in the spring of 1974, is that correct?

A That is correct.

Q So would it be fair to say that it took approximately three years to engage in the study?

A The first year, as I indicated, we worked and that committee did not finish its work. It was reconstituted about 1973 and that is why we reported in '74.

Q Why did the first committee not finish its work and become reconstituted?

A Well, my assumption would be that the task was more time consuming than many people had anticipated. The task required different kinds of expertise than many people had anticipated. The task as it relates to racism in materials very often is threatening to many people and they could not go on. I would think that those are some of the reasons why it took so long to complete it.

Q When the committee was reconstituted, was it with the support of the Dallas Independent School District and its staff or with the opposition of the Dallas Independent School District and its staff?

A It was with the support of the Dallas Independent School District and its staff.

Q Now, when the report was submitted to the [216] Board of Education, did the Board of Education spend any time with either you or the Dallas Chapter of

the American Jewish Committee upon presentation of the report?

A I did not present the report to the Board of Education.

Q Do you know who did?

A Mr. Cotton who was then the Director of Affirmative Action presented the report to the Board.

Q Did the Board spend — were you present when it was?

A No, I was not present.

Q Do you have any knowledge of the fact that the Board spent considerable time with the report?

A I do understand that the Board spent considerable time in examining and discussing the report.

Q What was your understanding of the amount of that considerable time?

A Well, a portion of the meeting but I don't know how much time.

Q Following the submission of the report did the School District take any action with respect to the state Board of Education's selection of textbooks in the area of bias as covered by the Committee report?

A In the area of selection of textbooks since I had that responsibility I did develop additional [217] criteria for the selection of the textbooks that we shall be adopting next year.

Q Did you on behalf of the Dallas Independent School District submit that report or those recommendations to the State Board of Education?

A Those have not been submitted to the State Board.

Q Do you intend to submit them?

A I'm not sure that we will submit them.

Q What is the purpose then of the material you're working on for submission to the State Board of Education?

A I indicated that this report was submitted to the State Board, the Dallas Chapter's report. The purpose of our study is to identify areas of bias in the materials we use and then to train teachers so that they themselves are aware of those biases and can compensate for that when they are instructing students in the Dallas Independent School District.

Q Do you understand the thrust of your duties and assignments with the Dallas Independent School District is to take the existing books available from the State and assist teaching personnel and others in the School District to be aware of cultural bias and to make aware to them materials to counteract or to [218] better present other ethnic group's positions in this country?

A That is an accurate statement.

Q And have you undertaken to do that in this District?

A I have.

Q Have any of your efforts to accomplish that task been thwarted by the School Superintendent or the Board of Education?

A My efforts have not been thwarted by the School Superintendent nor the Board.

Q Have you had the cooperation of the Board and the School Superintendent in the carrying out of those efforts?

A I have.

Q In your focus on the social science textbooks and your methodology of carrying out your tasks to make them aware of the biases and to counteract those biases, what are some of the things you do in the Dallas Independent School District to show teachers how to deal with the textbook and the alleged bias in the textbook?

A The first thing I try to do is to help teachers identify the biases by again looking at certain kinds of criteria. For example, we have asked them to count the number of pictures in a book to indicate how many of [219] those pictures contain ethnic minorities or people of color. We have asked them to again count the number of pictures and to see if those minorities are in the central position or if they are in the peripheral positions. That's an example of the kind of consciousness that we try to raise. If we then determine that minorities are presented in demeaning roles then we try to help teachers supply supplementary materials that present minorities in a very positive role.

* * *

[230] EDWARD B. CLOUTMAN,
having been produced as a witness at the instance of
the [231] Plaintiffs was duly sworn and testified on his
oath as follows:

DIRECT EXAMINATION

BY MS. DEMAREST:

Q Would you please state your full name for the

Court?

A Edward B. Cloutman.

Q And what is your profession, Mr. Cloutman?

A I practice law.

Q And are you in any way associated with the proceeding which is currently in hearing in this Court?

A Yes, I am.

Q And did you in your capacity as an attorney — what capacity do you serve in this case?

A I'm co-counsel representing the Plaintiffs in this action.

Q In the capacity of your service as co-counsel in this matter did you have occasion to direct the work which was done in terms of preparing what has been labeled as Plaintiff's Exhibit 16 containing two proposals, Plans A and B to desegregate the Dallas Independent School District?

A Yes, I did.

* * *

[240] Q All right. The other question was: Was there an attempt made to completely enclose within each subdistrict all of the student attendance patterns which [241] would flow from elementary to junior high to senior high?

A There was an attempt made to do that. We attempted to, for instance, within A-2 continue the student from elementary attendance zones in A-2 to junior high and senior high zones in A-2. It didn't always work out that way because of the location of the

junior high and senior high facilities, it does not necessarily lend itself to that.

Q Did size of those facilities have any bearing on our ability or our inability to achieve that goal?

A Capacity was also a problem. The existent capacity in the buildings that do exist presented us from continually following that pattern to the secondary schools.

Q If you would, Mr. Cloutman, starting out with Plan A, if you would explain for the Court the assignment patterns and you may want to use the maps to do that. Explain to the Court the assignment patterns and how the Court can tell by using the color code what schools are paired with what schools at the elementary level beginning with the elementary level.

A I think we would first probably want to show the Court which schools under Plan A — elementary schools are considered under that plan naturally integrated or desegregated.

[242] Q What section of Plaintiff's Exhibit 16 would contain that information?

Page nine?

A Yes.

Q Does page nine of Plaintiff's Exhibit 16 show that information?

A Yes, it does, on item thirteen — item eight, excuse me, we list thirteen schools, that under the standard use were residentially integrated.

Q Before getting into this, Mr. Cloutman, Plaintiff's Exhibit 16 is the written description of Plans A and B. Was this exhibit prepared under your direction and supervision?

A Yes, it was.

Q All right. Plaintiff's Exhibit 19, 20, 21 and 22 are maps showing the subdistricts and the pairing and clustering arrangements at the elementary, junior and senior high level for Plan A. Were these exhibits prepared under your direction and supervision?

A That's correct.

Q Plaintiff's Exhibit 23, 24, 25 and 26 are maps showing the subdistricts and the elementary, junior high and senior high pairings and clustering under Plan B. Were these maps prepared under your supervision and direction?

[243] A Yes, they were.

Q Plaintiff's Exhibit 17 is a small scale map of elementary attendance zones which I believe are the same maps that are used for the previous exhibits 19 through 26. Could you please explain to the Court what this map contains in terms of information?

A Plaintiff's Exhibit 17 contains a demographic distribution or a map distribution of the thirteen elementary schools considered under Plan A naturally integrated and they are colored with the felt tip pen the color of purple, lavender.

Q Was this Plaintiff's Exhibit 17 prepared under your direction and supervision?

A Yes, it was.

Q All right. Turning your attention to Plaintiff's Exhibit 18, could you please explain to the Court what Plaintiff's Exhibit 18 contains?

A Plaintiff's Exhibit 18 contains similar information for Plan B. That is elementary schools considered desegregate under or by natural housing patterns.

Q And it is also drawn on a small scale elementary attendance zone map?

A That's correct.

* * *

[258] Q I notice, Mr. Cloutman, that some areas of that map are not colored. Would you explain to the Court what that means?

[259] A Yes. Those areas are the areas considered by the standards we used for Plan B as being naturally integrated and those are indicated on Plaintiff's Exhibit 18, the small map. I'm sorry, we only have one copy of these.

Q And they're also found on page forty-one of Plaintiff's Exhibit 16, are they not?

A That's correct.

For an example, Your Honor, by student assignment again, the students in the noncolored areas would attend their neighborhood schools in that by our standards they were considered to be naturally integrated.

The students in these two green areas are what would be B-1, superimposing the number from Plaintiff's Exhibit 23 to Plaintiff's 24, would be assigned together. And the grade assignment are in Plaintiff's Exhibit 16 for those schools.

Similarly, within each subdistrict, the colors match where the students attend together. If there is no color, the students attend their neighborhood schools.

Junior high, Plan B junior high map is labeled Plaintiff's Exhibit 25 and it again uses a color code to deter-

mine where students will be assigned by junior high attendance zone area. Students here will be [260] assigned — Seagoville students coming from this area as well as this area (indicating). And in some cases the labels are difficult to see because of the glare. But, the word Seagoville appears here and here and here as the school (indicating).

* * *

[295] CROSS EXAMINATION

BY MR. WHITHAM:

* * *

[329] Q What is the one difference?

A Other than the measuring stick we used to determine what a desegregated school was. As Dr. Willie explained this morning, the way he recommends to approach student assignment plans is to consider all schools, to [330] consider they're all available for student assignment purposes and if — and draw subdistricts and if it happens that within subdistricts one need not utilize students in a particular school for a reassignment and it happens to meet the otherwise set out criteria for a desegregated school one might leave it alone. And on that approach we've left those alone.

Q You've just described perhaps the reason for your approach.

A Yes, sir.

Q But whatever the reason for your approach, both your plans leave certain areas of the School District alone as naturally integrated neighborhoods?

A That's correct.

Q Now, the Plaintiffs, under Plan A have not achieved in all instances uniform grade level configuration, have they?

A That is correct.

Q Would you turn to Plaintiff's Exhibit 16 to page twenty-nine, please?

A Yes, sir, I'm there.

MS. DEMAREST:

What did you say? One twenty-nine?

MR. WHITHAM:

Twenty-nine.

* * * *

[354] Q Is there somewhere in the Plaintiffs' Plan B that I can find the number of Anglos that the Plaintiffs [355] advise the Court will be in City Park School, grades K through six?

A You don't find on this — in this document —

Q By "this document" do you mean Plaintiff's Exhibit 16?

A I do, in Plan B, a racial breakdown for the residentially integrated schools. We did not set those out in that they fell within our seventy to thirty percent test.

Our worksheets that went into making up these determinations do show in a fairly exact manner the

number of students by ethnic origin that would attend the residentially integrated schools. We did not list those because they fell within that range. Now, that is all you will find within the four corners of Plaintiff's Exhibit 16.

Q Well, the answer to my question is there's no way the Court can find the racial composition of any school listed in your plan. Let's see if I can find the — do I assume then that anywhere there is not a sixth grade you have —

A Counsel has shown me something in this document that does set out the residentially integrated neighborhoods. It's not in the projected enrollment but in the present enrollment figures. That's on page forty-one.

* * * *

[371] Q I said, did you count him in your figures?

A I don't believe so.

Q So regardless of distance from buildings of any child, in any grade level, unless he lives in a non-contiguous attendance area he's not counted on your figures in Plans A and B?

A For transportation purposes — figures for purposes of desegregation he would not be counted unless he lived in a noncontiguous zone and over two miles from the school.

Q If we were to count transportation figures as computed by the School District, your transportation figures would be considerably higher than as set forth in either Plans A or B, would they not?

A You mean if we calculated every student under these proposal who would be over two miles from the school to which he is assigned, it would be higher, yes, sir.

Q Right. And you understand that each student in the District is being assigned to some building by virtue of a student assignment plan, do you not?

A Oh, yes, sir.

Q Perhaps I missed it elsewhere, but would you refer to page five, under "Senior High Schools — Plan A"?

A Yes, sir.

[372] Q You closed Skyline as an all-purpose high school, did you not?

A Yes, sir.

Q And assigned those students elsewhere?

A Yes, sir.

Q So it serves only as the so-called "Magnet school," correct?

A That would be the proposal, yes, sir.

Q I see also on that page you close Hillcrest High School under Plan A?

A Yes, sir.

Q And those students apparently are assigned to, where? Roosevelt High School?

A Some to Roosevelt. I guess most of them to Roosevelt. I'm not sure whether some of those now live in what would be the Woodrow Wilson attendance zone, but one of the two.

Q Does Plan A contain any provision for the use of Hillcrest High School — the building?

A I don't recall that it does.

Q It just in effect abandons it as a school building —

A I believe that's correct.

Q — under Plan A?

A Under Plan A.

* * * *

[375] Q Tyler and —

A This school here, I think (indicating).

Q This one? Can you identify it for the record?

A I'm not certain I can. We took the furtherestmost northern school in A-7 there — I believe this school and this school (indicating), the names escape me. I think it's Lisbon and Withers.

Q Furtherest northern by location?

A I'm not sure. I think it's the Withers School.

Q That wouldn't be Withers.

A It's the one next to the Dealey zone. I think that one that we made was at least about thirty-four, thirty-five minutes and it took — it was about twenty-two miles.

Q Do you want to state —

A Tyler to Lisbon.

Q Tyler to Lisbon. What route did you take?

A We took a, I believe, east-west major street, I believe Royal Lane, to the Tollway, south to I-35, I-35 to I believe Ledbetter on the southern end, Ledbetter east — I've forgotten the street name. It's the same street that the Veteran's Hospital is on, turning north and then to the school.

Q What time of day?

A It was about noon.

[376] Q What day of the week?

A It was on a Sunday.

Q On a Sunday?

A Yes, sir.

Q Did you do any time and distance — where are the pairings you referred to in your plan that you're going to use Central Expressway?

A I would have to look at the plan. I'm not certain. It would be opposite the ones on the northern and eastern sides of the District. I'm not certain by name right now.

Q How about Budd, Kramer, Dealey and Pershing?

A I'm not sure in any case on a recommended route.

Q But, you haven't done any time and distance studies, north to south, in pairing A-7 under Plan A, using Central Expressway during a weekday at 8:00 o'clock in the morning?

A No.

Q Please turn to page thirty-four of Plaintiffs' Plan B.

A Yes, sir.

Q And I direct your attention to paragraph number four.

A Yes, sir.

[377] Q I quote: "Distance from the majority white areas, capacity of schools, DISD enrollment patterns and generally good physical facilities were factors resulting in South Oak Cliff retaining its present student assignment pattern."

Do you see that?

A Yes, I do.

Q And would there be a similar statement that appeared on page thirty-six with respect to Storey and Zumwalt Junior High Schools retaining their present student assignment patterns?

A That's correct.

Q And somewhere in here, if I can find it — no, it's on page thirty-eight — there is a similar statement with respect to a number of elementary schools in your sub-district B-8 retaining their present enrollment patterns?

A That's correct.

Q Is that not correct?

A That is correct.

Q And we're talking then generally, are we not, about elementary schools, two junior high schools and one high school located in this particular all-black section of the School District, are we not?

A Yes, sir.

[378] Q And, in effect, you're leaving some twelve elementary schools, two junior highs and one high school all-minority in this particular area, are you not, under Plan B?

A That is correct, except that those twelve elementary schools actually serve eight zones.

Q Eight zones. Then under your Plan B you leave in West Dallas one or two all-black or all-minority schools under Plan B, do you not, as well as Dunbar in South Dallas?

A I believe we leave the Allen School and possibly the Lanier.

Q Now, let's go back to the quoted phrase I read to you from page thirty-four; do you recall —

A Yes.

Q — in paragraph four?

A Yes, sir.

Q Do I correctly read that that in Plaintiffs' Plan B, you recognized that distance from the majority white areas within the Dallas Independent School District is set forth as the reason or justification advanced in Plan B for leaving South Oak Cliff High School all-black?

A That's one of the reasons —

Q One of the reasons.

[379] A — offered there.

Q It is a reason offered there by Plaintiffs, distance from white areas; correct?

A One of the reasons.

Q Do you generally accept the School District's delineation on Defendant's Exhibit 2, the yellow shaded area as being a majority white area or the majority white area for scholastic purposes within the Dallas Independent School District?

A Yes. It compares very closely to a map we have been furnished by, I believe, your office.

Q Would that yellow shaded area on Defendant's Exhibit 2 fairly represent majority white areas as you used that term in paragraph four on page thirty-four of Plaintiffs' Plan B?

A Yes.

Q All right. The next thing you took into count under Plaintiffs' Plan B as justification for leaving certain all-black schools was the capacity of schools, was it not?

A Yes.

Q The next, or third thing you advanced to the Court as justification for all-black schools was DISD enrollment patterns, was it not?

A Yes, sir.

[380] Q What did you have reference to by the phrase, "DISD enrollment patterns"?

A Patterns both for numbers and for race for those schools, as we can determine them from the various reports, the Hinds County Reports, filed by the District.

Q Well, by "Enrollment patterns" did you mean the numbers of Mexican-American students, the numbers of black students and the numbers of white students?

A Yes.

Q By "Enrollment patterns" did you mean that some years ago there were more Anglo students than there now are?

A I'm not sure that was one of the considerations. The enrollment patterns as we view them in this litigation have always been predominantly minority in that area from the time frame I am speaking of, 1970 on.

Q Well, by "DISD enrollment patterns," then, do you at least mean a recognition on the Plaintiffs' part of a rather constant growing school age population in the area served by those schools?

A Yes, that's one thing.

Q By "Enrollment patterns" do you at least — do Plaintiffs at least take into account a steadily decreasing enrollment pattern of Anglo students in the yellow shaded area on Defendant's Exhibit 2?

[381] A No, that's not what we meant. The absence of the Anglo growth in that area and the potential for it — the area known as "B-8."

Q The fourth reason you advance to the Court for leaving all-black schools within the Dallas Independent School District, as represented by the quotation taken from page thirty-four, paragraph four, was the generally good physical facilities that existed. Were you referring to generally good physical facilities in the area you left the all-black schools in, Oak Cliff?

A Yes. And I'm sure there are exceptions to the generally good facilities, but by our inspection and by review of the statistical information we have on each school building they looked to be generally newer and in reasonably good shape for occupancy.

Q So you're recognizing and telling the Court that at least in the Dallas Independent School District, in that predominantly black area at least, there are good physical facilities?

A There are some, yes. I'm sure they are — they compare, for instance, better physically than some of the all-black schools do in South Dallas.

THE COURT: Let's take the morning recess. Fifteen minutes.

(morning recess.)

[382] THE WITNESS:

Counsel, if I might, I would like to correct an answer I gave you prior to the recess when you asked about the schools we had traveled. And the school name in North Dallas was Withers Elementary. Withers.

Q (By Mr. Whitham) Withers to whom?

A Lisbon.

Q Withers to Lisbon?

A Yes, sir, I'm sorry.

Q But, we still did it about noon on Sunday?

A Yes, sir. We were trying to measure the distance. It's the same on Sunday as it is on Monday I think.

Q Under your Plan B: On page thirty-four, under Plan B you again close Skyline's attendance zone, do you not, as you did in Plan A?

A Yes, sir.

Q But, in addition to that high school building closed, you also closed Hillcrest, Thomas Jefferson and Seagoville as high school buildings, do you not?

A They are — their use is changed, that's correct from a high school to —

Q You closed them as high schools?

A Yes. They will no longer be high schools.

Q And would it be fair to say that if you closed [383] Skyline's attendance zone, Hillcrest's attendance zone, Thomas Jefferson's attendance zone and Seagoville High School's attendance zone you would be closing schools located virtually in the predominantly Anglo area of the School District and thus making more Anglo students available for being transported into minority area high schools?

A One, Hillcrest and Thomas Jefferson are in the predominantly Anglo area; I guess Skyline is by its attendance pattern. By closing those high schools, obviously, you assign those students to other schools, yes, sir.

Q And under Plaintiffs' Plan B on page thirty-six you closed Edison as a junior high school, Holmes as a junior high school, Hulcy as a junior high school and Rylie as a junior high school; correct?

A No, sir. We use part of Edison for a junior high and part for a magnet school.

Q But, you then do close Holmes, Hulcy and Rylie as junior high schools?

A That's correct.

Q Now, I notice also that with respect to Edison, Holmes, Hulcy and Rylie, under Plaintiffs' Plan B you make some suggestion of their use as a magnet school; do you not?

[384] A Yes, sir.

* * *

[405] CROSS EXAMINATION

BY MR. BRYANT:

* * *

[406] Q What I would like to ask you is several questions regarding the considerations that you viewed as important in drawing up the plan.

First of all, I would like to ask you if you considered residential patterns of integration to any extent?

A Yes, sir. We have indicated in both Plan A and B that certain areas were left intact if they met a ratio of not having more than seventy percent of any one race.

Q All right. But, weren't those figures based upon the enrollment in the schools?

A Yes, sir, that's correct.

Q You don't have any studies reflecting the actual residential patterns of integration in a particular area?

A Not for this lawsuit, I do not.

Q Did you consider to any extent the emerging residential patterns?

A Emerging —

Q Emerging residential patterns or trends, projected racial breakdowns that will probably occur in the future?

A We did do some consideration of student [407] enrollment patterns that were emerging or appeared to be going one particular way, but not for the general populous.

Q To what extent did you consider the emerging student enrollment racial breakdowns?

A Well, in particular, a portion of B dealt with South Oak Cliff and considered the ever-increasing number of minority children moving into that area. That's one consideration.

Q Well, can you tell me specifically how that consideration is reflected in this plan?

A Yes. That would form part of the basis for the proposal in Plan B to leave the District B-8 intact, attending their resident neighborhood schools.

Q What did you use to — explain for me the way in which you devised this projection.

A Well, that wasn't much of a projection. Actually, we were looking backwards over what the enrollment

patterns had been and assuming there would not be much difference in the next year or two in the increase in that area.

Q Well, that's basically in all minority areas, is it not?

A Yes, sir.

Q So you didn't have to decide if there was going [408] to be an increase in black enrollment or an increase in white enrollment, you just assumed it would stay the same?

A We were trying to determine whether there was any possibility of black enrollment tapering off or whether there was any possibility of Anglo enrollment in the future, and we determined it was very unlikely.

Q What factors did you consider as you tried to make that determination?

A Just enrollment patterns in the past — the past five or six years by race.

Q You had no particular formula that you followed?

A Not a particular formula, no, sir.

Q Did you consider to any extent the stability of any area of town? And by, "Stability," I would mean several factors should be taken into account: The real estate market, the current movements now taking place in the area, the present attitude of the residents of an area about the future of the area of town in which they live?

A I'm not sure that formed much of a basis, except insofar as we looked at student assignment patterns to

try to determine whether by treating them certain ways one might stabilize an integrated school setting or one might not stabilize that by doing one thing [409] or another.

* * * *

Q Okay. My initial question, though, was about stability of various areas of town, and I asked you whether or not you considered stability as you drew up your plan. And your answer to me, I believe, was that you considered it to the extent that you left the integrated areas alone. Now, in what way in your view does further integration of an area which is already partially integrated [410] contribute to instability of that area?

A I don't assume and I don't know that it does contribute to instability. We felt that if what appeared to be residentially integrated student assignment patterns were present within the realm of a seventy to thirty percent range then no further integration needed be occasioned by our proposals and those would be sufficient.

Q Well, then, if I asked the question again, to what extent did you consider stability of various areas in drawing up your plan, the answer would have to be that you didn't consider stability, wouldn't it?

A Not as a concept itself, no, sir.

Q All right. You didn't consider stability?

A Not of a neighborhood. If a school appeared to be naturally integrated we felt like that was enough for our purposes, we need not move students around in that area because the schools were already integrated. We didn't do any studies of neighborhood stability, as such, at all.

Q Was there a reason why you did not consider neighborhood stability in drawing up these plans?

A The only reason I can tell you is that we were interested in student enrollment patterns only in drawing the plan.

* * *

[412] CROSS EXAMINATION

BY MR. DONOHOE:

* * *

[426] Q Yes, sir.

A No, I don't believe we have done any of those.

Q All right. Let's assume all of these grade schools: Oran Roberts, Robert E. Lee, Stonewall Jackson, Bayles, Sanger, Lakewood, Mount Auburn or Lipscomb?

A I don't believe we ran any of those in particular under either plan.

Q Mr. Cloutman, you were present during Dr. Willie's testimony earlier; is that correct?

A Yes, sir, I was.

Q And you heard him testify that the goals of urban planning, rehabilitation, efforts to rehabilitate, renew inner cities should be accommodated, if at all possible; I believe he stated, could be accommodated under a desegregation plan provided that it did not result in unconstitutional actions in connection with the desegregation of schools. Would that be a fair summary of his testimony?

A If I recall what he said, that could be a laudable goal of urban planning if it was not at the expense of student integration.

Q But, he did indicate that the School District's actions and the actions of the city or the urban planners did interact, did he not?

A Yes, he did.

[427] Q And I believe he also testified, did he not, that these interactions should be taken into account so long as they did not interfere with unconstitutional — or, did not cause unconstitutional segregation of the school system?

A He used words something to that effect, yes, sir.

Q You would agree that's something like what he said?

A Yes, sir.

Q All right. Would you agree then that any desegregation plan adopted by this Court could well take those factors into account, as far as your clients and yourself are concerned?

A Provided it would not be at the expense of student desegregation, yes, sir.

MR. DONOHOE:

All right. That's all. Thank you.

* * *

TRANSCRIPT OF PROCEEDINGS
VOLUME IV

(Number and Title Omitted)

Filed: August 9, 1976

[2] DR. CHARLES HUNTER,
(Witness Sworn by the Court)

DIRECT EXAMINATION

BY MR. CUNNINGHAM:

* * * *

[6] Q Okay. Dr. Hunter, the NAACP had submitted for consideration by the Court a plan referred to as the NAACP Plan; is that correct, sir?

A Correct.

Q And I'll show you what has been marked as NAACP's Exhibit number 2, which is the proposed plan of desegregation submitted to this Court on behalf of the NAACP. Are you familiar with that proposed plan, Dr. Hunter?

A Yes, I am.

Q Okay. Would you state whether or not — would you state whether or not you know who drew that plan?

A Yes.

Q Who drew it, Dr. Hunter?

A I did primarily.

Q Okay. You said "primarily". Did someone else work with you in the drawing of the NAACP's Exhibit number 2, the proposed plan?

A No.

MR. CUNNINGHAM:

Your Honor, we would at this time offer as NAACP's Exhibit number 2 the proposed plan for desegregation for DISD prepared by Dr. Hunter as our Exhibit number 2.

* * * *

[14] Q Would you state to the Court what those goals were?

[15] A Yes. The goals of the plan as set forth were: "1. To make use of the positive elements that can be found in naturally integrated neighborhoods and to enhance opportunities for persons in other neighborhoods in the development of programs which will provide quality education for all."

And: "2. To enhance educational opportunities provided in inner city schools by the development of a superior educational program in each of the schools and to provide physical facilities of a quality and quantity commensurate with the needs."

And: "3. To develop a plan of education that recognizes the diversity in populations and which will

utilize these diversities to impact upon the integrated whole for the entire District, which will include the upgrading and improvement of education in every school."

And: "4. To develop a program of community involvement whereby the decision-making body in the school system will have regular input, both system-wide and in each local school."

Q Okay. Dr. Hunter, you said, to make use of the positive elements that can be found in naturally integrated neighborhoods and to enhance opportunities for persons in those neighborhoods. Would you explain to the Court what you had in mind when you developed this goal?

[16] A Yes. One of the aspects of the rationale was that the desegregation would result in integration of not only race but of also socioeconomic status groups. This I think is important.

Now, integrated neighborhoods have the advantage of having a mix that is superior to those neighborhoods that are not integrated. Heterogeneous neighborhoods tend to have an advantage over homogeneous neighborhoods in many ways. Now, that's a positive element.

In addition to that, there are positive elements in the fact that the schools are already — school populations are already desegregated, too, so that there is no reason to disturb them if they're already desegregated. These schools, then, should not be disturbed in order to desegregate other schools.

Q Dr. Hunter, a second goal you outlined was the

enhancement of educational opportunities in inner city schools. Would you elaborate on that and what you propose here?

A Yes. The inner city schools for the most part have older facilities; that's one thing. But, they also tend to have — tend to serve populations with greater density and, therefore, tend to be larger in size. They also have historically been the ones that tend to be more neglected among the schools. The newer school buildings [17] generally ring the periphery of the city, you know, as you go out. The inner city schools tend to be neglected more often.

* * * *

[18] Q Okay. Would you advise the Court what the [19] guidelines were, or what would be your first guideline?

A Well, the first guideline actually was to develop a fair and reasonably stable plan by taking note that every school should have a racial balance comparable to the racial balance in the District, which will not deviate more than ten percent up or down; and to not transport students out of a neighborhood which is already integrated. That is, one having the racial balance referred to above.

Q Now, Dr. Hunter, before going further with your guidelines, after you had developed your rationale, your goals and you had some idea of your guidelines did you have information with respect to the enrollment or data figures; did you have any of this information?

A We had information about enrollment, etc., and particularly the percentages of racial groups in each school. But, this plan did not — or, at least I did not see the necessity to have accurate totals in this plan. We saw the need to devise a plan — a model, because ultimately the responsibility for assigning the students — physically assigning the students is going to be the administration's anyway. And when we devise plans, it is devised at one point in time to be implemented at another point in time and the figures we have available at that time are not the figures that will be used at the later time.

* * *

[102] CROSS EXAMINATION

BY MR. DONOHUE:

* * *

[106] Q All right sir. And all of the other white markers are also a breakdown of the racial mix or ethnic mix in a particular elementary zone, is that right, sir?

A That is correct.

THE COURT:

In percentages, isn't it?

THE WITNESS:

In percentages, right.

Q All right. Now, Dr. Hunter, could you tell me whether you would agree as a professional educator that obtaining racial balance through changes in hous-

ing patterns would be a preferable method to the transportation of students if it were possible?

A Yes.

Q And that's reflected in your plan by the fact that you treated several schools as naturally integrated, is that correct?

A Yes.

Q All right. Now, assume with me, Dr. Hunter, some facts not in evidence.

MR. CUNNINGHAM:

Your Honor, we would object to him assuming something that's not in evidence.

MR. DONOHUE:

Well, we'll offer this in evidence at a later time, Your Honor.

THE COURT:

Well, I'll let you submit a hypothetical question.

MR. DONOHUE:

I'll connect it later.

[107] THE COURT:

Predicated, of course, on the fact that you expect to prove the basis for this hypothetical question.

MR. DONOHUE:

We understand, Your Honor.

Q Assume with us that the City of Dallas through its Planning Department and its Department of Urban

Rehabilitation is attempting to develop a strategy for the preservation of inner city neighborhoods for the arresting of decline of inner city neighborhoods and for the stabilizing of the — what would have the effect of being the racial and ethnic balance in certain inner city neighborhoods. Would you agree that this plan should take that strategy into account to the extent that your plan would affect their strategy? Should there be any connection, any consideration given to the city's strategy as I've defined it?

A Insofar as the variables of community concerns are taken into account, I would say that also should be a consideration.

Q Also. Could I go further and say that if a strategy is being developed which is designed to promote racial balance or would have that effect and would also be a public policy of another governmental unit such as the City of Dallas, that this should be accommodated in your plan?

MR. CUNNINGHAM:

Your Honor, we will object [108] to it first of all because it is an assumption. It's speculative. First, it's based on an erroneous assumption because I think — I know that there is no such plan by the Department of Urban Development to develop a racial balance in the inner city and the reason I know it is because I'm a member of the City Planning Commission and I know there is no such policy.

MR. DONOHUE:

Well, I used the words, "it would have that effect," Your Honor.

THE COURT:

Well, I'll let it go to the weight of it.

Q Would you answer the question, Dr. Hunter?

A I've forgotten the question.

Q All right. Dr. Hunter, maybe the question wasn't particularly well phrased. Would you agree that to the extent that there are policies of another governmental unit which affects geographical areas within the Dallas Independent School District, those geographical areas being generally referred to as the inner city, which policies might have the effect or designed or would have the effect of promoting racial balance, would those policies — should those policies be considered in the exact formulation of a plan of desegregation for the Dallas Independent School District?

A Such plans should be considered insofar as they do [109] not restrict the achievement of the ends of developing a plan of desegregation.

Q Right. In other words, you're interested in school desegregation?

A Right.

Q But if the plan could be designed in such a way so that it would not interfere with the policies I've just outlined should that plan be designed in that fashion?

A I would think so.

MR. DONOHUE:

Thank you, Dr. Hunter.

CROSS EXAMINATION

BY MR. BRYANT:

Q Dr. Hunter, I just have two questions for you.

Did you at any time consider the residential character or residential racial breakdown of the various areas in the Dallas Independent School District as you were drawing up your plan?

A Yes.

Q Okay. In what respect is it reflected in your plan?

A The plan calls for the consideration of those naturally integrated neighborhoods by housing patterns to the extent that they would also result in desegregated school bodies, that they should be exempted from the pairing.

* * *

[118] JOSIAH CALVIN HALL, JR.,
having been produced as a witness at the instance of
the Court was duly sworn and testified on his oath as
follows:

DIRECT EXAMINATION

[119] BY THE COURT:

* * *

[123] Q Does anybody —

THE COURT:

Are there numbers on it?

MR. WHITHAM:

Yes sir, they're up in the far right corner. They've been numbered 1 through 4.

THE COURT:

Dr. Hall Exhibits 1 —

MS. DEMAREST:

Dr. Hall's 1 —

THE COURT:

Dr. Hall's Exhibits 1, 2, 3 and 4, is that correct?

MS. DEMAREST:

Right.

THE COURT:

All right, go ahead, Dr. Hall.

A (Continuing) The middle school map, Exhibit 2;
the junior high school map, Exhibit 3; the senior high
school map, Exhibit 4; and the plan itself — now, this
was not given a number but I think it ought to be Ex-
hibit 5.

THE COURT:

Let it be Exhibit 5. Does everyone have a copy of it?

MR. WHITHAM:

We have a copy and would this be an appropriate time
if the Court's about to consider its admission for me to
go through one of my little drills?

* * *

[128] Q (Continuing by the Court) Dr. Hall, would you give us the benefit of your plan?

[129] A In the development of this plan guidelines were established and utilized as follows:

Now, Your Honor, we have numbered these pages, the first three cover pages A, B, and C and then page 1 doesn't have a number on it, so if you number that 1 then it would be simpler to follow my presentation.

Guideline one: page A paragraph two. Assign kindergarten and first grade pupils to facilities near their homes without reference to ethnic groups.

Pupils in these grades were assigned to schools which pupils in these grades presently attend except where there is a change in boundary lines between Stemmons and Hall, between Bud and Mills, between Travis and Booker T. Washington and between Lakewood and Lee to provide for the regular pupils at Stonewall Jackson or the school is discontinued as a facility for regular pupils, Juarez, Douglas and Stonewall Jackson. Incidentally, Stonewall Jackson has special ed pupils and they would continue to have.

Guideline two: page B item three. Assign pupils in other grades so that no school will have more than approximately 75% nor less than approximately 30% of combined minority groups.

Guideline three: page C item four. Insofar as possible where individual schools or adjacent schools by their racial composition meet the approximately 75-30 ratio [130] of guideline two leave them in tact or combine them.

There are fifty-three centers in this group listed in Exhibit 5 on pages 14 to 19. The elementary schools are

shown in red color on Exhibit 1. That's the map for the elementary schools, Exhibit 1 and the red color deals with this group.

All centers fully meet the 75-30 ratio except seven considered as approximately meeting the 75-30 guideline.

And those seven are Arcadia Park Elementary which has 25.6% combined minority group; David G. Burnett, 26 and 1/10; Tom W. Field Elementary, 24 and 9/10; John Ireland Elementary, 28 and 7/10; Leslie Stemmons Elementary, 25 and 8/10; Mark Twain Elementary, 81 and 5/10; D. A. Hulcy Junior High which is on Exhibit 3, 81 and 4/10.

Guideline four: page C item 5. Assignment of pupils to schools should be done in such manner that if possible pupils will spend a maximum of thirty minutes in being transported. Three centers listed on pages 14 to 18 were initially included in this group as being too far to be transported within thirty minutes. They are Central Elementary with a combined minority of 15.2, Seagoville Elementary with a combined minority of 16.4, and Seagoville Junior Senior with a combined minority of 16.4.

A number of these fifty-six centers do have no or little representation from one of the minority groups.

* * * *

[295]

PROCEEDINGS

(2:00 P.M. February 19, 1976)

THE COURT:

I think I had originally designated this as a pre-trial and those matters are generally held, as you know, in the office, but I decided that there was a lot of interest in this matter as well as the fact that there may be some things that people, parties, the attorneys, want on the record anyhow and so I decided we ought to come in here. We had left the matter that I asked the attorneys to consult with their clients in regard to the Dallas Alliance Task Force plan that was submitted to the Court last Monday night and I had, as has been stated, asked the parties through their attorneys to consult about the possibility of an agreed order in this case and had [296] stated that the Dallas Alliance Plan, in the light of who it was on that Task Force, and I think it's a misnomer to call it the Dallas Alliance Plan, it was the plan submitted by that Task Force or its Task Force, but I felt that it might add some new dimension to any discussions as to a possible solution to this matter and I had asked the attorneys to report back to the Court this afternoon and we would go from there.

Is there anybody who wants to report to the Court? I asked Mr. Whitham, Mr. Martin or the Plaintiffs or anyone else who wants to —

MR. WHITHAM:

I suppose in view of what has happened that I go first and bear the brunt, so here I am. Judge, the Board of Education reviewed the Dallas Alliance proposal as thoroughly as possible, given the amount of time available to the administrative staff and attorneys. The Board thoughtfully considered all of the proposal's

provisions. A majority of the Board Members have expressed themselves as electing to stand on the School Board's plan and continue to assert it in the Courts. The Board indicated its willingness for its attorneys to continue to negotiate with the parties and, of course, the Board's attorneys [297] will continue to do so. And, as a personal statement from this attorney and also Mr. Martin's standpoint, we do pursue those matters with the other parties while this case is going on — we assure you that's not being ignored.

THE COURT:

Well, I do know that the attorneys have approached this matter sincerely and in good faith and likewise seek a solution to a problem that has many facets to it and is not easy. And I will repeat that I don't ask the parties to negotiate for my benefit because, though, I sometimes have wondered about it, deciding these cases is what I hired out for and I will continue.

MR. WHITHAM:

You will recall because I recall the strain of that last day in 1971, and I believe I made the comment then that the lawyers' role was easy in that all we had to do was to advocate, you had the hard job, you had to decide, and the lawyers here still recognize that.

THE COURT:

Well, I appreciate the efforts of the lawyers, I repeat that, I think I said it to you Friday, but I will say it to you publicly.

Thank you, Mr. Whitham.
Mr. Cloutman.

[298] MR. CLOUTMAN:

Your Honor, we have, as the attorneys for the Plaintiffs, gone through as best we could the proposals by the Dallas Alliance and we have consulted with representative members of the Plaintiffs and the Plaintiffs' class and I would like, if I might, Your Honor, to address myself categorically to the proposal so that it's clear how our posture is with respect to the Dallas Alliance proposal.

Firstly, Your Honor, not firstly — firstly, listed in the plan is the item of pupil assignment. I would like to take that up last with the Court.

Now, their recommendations two through six in their proposal have to do with other matters and respectfully, Your Honor, we submit that those are boiled down in our estimation to the items of education and staffing, accountability, and finally the pupil assignment proposal itself. Now, I don't submit that is how they would characterize them, but that is how we have catalogued them for our purposes.

The educational proposals, the staffing proposals, the accounting proposals, are very similar to those already advocated by the Plaintiffs. While the terms may vary, I believe that the Court [299] will recall that most of those concepts have been supported by testimony already by Plaintiffs and Plaintiffs' various witnesses.

The concept of facilities was testified to at length in an examination of the Chase report which this also relies upon to some degree. The magnet school concept has been dealt with by almost every plan so far propos-

ed. For that reason we believe that the testimony is in the record as of this date as to the advisability of such concepts.

I believe the testimony offered so far is even more specific in recommendations than this proposal in fleshing that out, so to that extent we have no quarrel.

We have in particular an accounting system proposed here almost identical to the one Dr. McDaniel testified to. We submit that's in the record for the Court's consideration.

Turning to the student assignment, it's difficult for us, without access to an on-going pupil accounting system, to know exactly how that would work at this stage or even next fall, given the knowledge and our figures. In working with our figures in proposing our own student assignment [300] plans I find or we find number one, that it's very difficult to tell exactly where the students would go to school and in what number, but secondly, it appears to us, and this is simply that of appearance, that some of the proposed fourth thru eighth assignments might even be impossible because of capacity problems occasioned in those areas in that we tried similar arrangements. I am not suggesting that is the case because I don't have the numbers in front of me to compare.

Secondly, with regard to the student assignment, the proposal, as our testimony has urged on the Court, does not go far enough, particularly into the early grades and to that extent the Plaintiffs have issue with the student assignment plan. I don't mean to say we reject the efforts of the citizens to aid the Court or assist in the process that we are now about, but rather in

dealing with as best we could the particulars of the plan those would be our comments and that the student assignment plan in particular is not the kind of plan we would urge upon the Court for the position of the Plaintiffs.

We do believe there is enough evidence in the record as to all facets of the other mentioned [301] items in their proposal for the Court to have some guidance from expert witnesses who have been brought before the Court and to that extent we feel that the evidence has been submitted to allow the Court to know whether these concepts are adoptable or not.

I believe we should, in our opinion, proceed with the case and continue whatever talks the lawyers are about and I believe forthwith continue the hearings.

Thank you, Your Honor.

THE COURT:

All right. Thank you, Mr. Cloutman.

MR. CUNNINGHAM:

May it please the Court, I have reviewed the plan and the map and I made copies of the plan available to the officers of my client, the NAACP, they have met and had an extensive review of the plan. After having had it and having also seen a copy of it in the paper, we had an extended discussion of the plan with the map where I explained as best I understood it and as best we could we hashed it out. At the outset we think aside from the student assignment plan, taking the student assignment plan and laying that aside for the time being, we

think [302] the plan has merit as Mr. Cloutman mentioned as instructional material, instruction, with respect to staffing, with respect to accountability, with respect to a monitoring system, with respect to magnet schools. We think all of these are good. This is some of the things that are advocated as the Plaintiffs have advocated. When we look at the student assignment plan we have some doubt, first of all, as to the legality of waiting to attempt to achieve this by September 1, 1979, first of all, to achieve a unitary school system. It is our contention and it is the belief of my clients that DISD should be a unitary school system now and particularly when school opens on September 1, 1976. So we think that the law is clear that DISD should operate a unitary school system. Passing the three year delay we are faced immediately with the problem of the Fifth District, which is left 98% black, 2% brown for grades four through eight, and we can see no justification and we feel and my opinion is that, and this is strictly lawyer's opinion that in face of the Fifth Circuit's mandate that it is not valid, that it's not legal to leave 98% of one district out of five totally black or totally minority. [303] Second, we think that when or after we get past this fifth district, which is totally minority, we can see no justification, no basis whatsoever, no rationale contained in the plan or the exhibits attached to it which justifies nine through twelve remaining at home. The members of the NAACP can see justification possibly for K through three because we are dealing with young children, the first time in school. I have talked with some teachers and they explained that these kids may lose their or may have problems being there the first

time but for nine through twelve there is no justification that we can see. We have not had their benefit or reasoning of why they did it, maybe it will come out through one of their witnesses. But as the student assignment plan stands now, the NAACP cannot adopt it because of the reasons I have stated.

Thank you.

THE COURT:

Thank you, Mr. Cunningham.

THE COURT:

Any of the intervenors?

MR. MOW:

Your Honor, I will make any response brief on behalf of the Curry intervenors. We spent a good deal of the time yesterday evening going over the plan and basically we feel like [304] there is insufficient detail in a number of particulars to respond affirmatively or negatively. A good deal of that plan depends on what the School District and the school administration can do. We don't feel like we are qualified to make those decisions and particularly with regard to the student assignment until we know how and why and where people go, it's not up to us to say, but we will reserve judgment on this until we have more detail on it, but I would like to make the comment that on the staffing proposals, they appear to be impracticable.

THE COURT:

All right.

MR. FROST:

Your Honor, if we may, Mr. Bryant and I will speak separately on this. I have reviewed this with my clients in the case, I represent the people from western Oak Cliff, basically. We like the concept of the subdistricts, that is, the relatively compact subdistricts, and not involving people from different parts of town. We have serious reservations about the plan, number one, on the basis that we don't, as Mr. Mow stated, we don't feel we have sufficient specifics to make a totally intelligent judgment on the plan.

[305] Number Two, the people I represent are very interested in having a final resolution to this case. Their area has suffered greatly under the uncertainty in the last four years and we are seriously concerned because the plan provides less integration at the high school level than the '71 Court Order and there is serious question about the plan being upheld on appeal. We would be interested in this plan if high school districts could be incorporated.

THE COURT:

All right.

MR. BRYANT:

Our clients, from the Pleasant Grove area, feel the concept in the Alliance proposal is basically acceptable. We do have concerns, as Mr. Mow said, there is insufficient detail for us to make a decision on how we feel about the way in which it might be implemented. However, my clients feel that it is a concept that should be worked with and one that with further refinement,

hopefully would lead to fruition and we will continue working with Your Honor and the parties and the Court in attempting to make something workable from it.

THE COURT:

All right. Mr. Donohoe.

MR. DONOHOE:

Your Honor, I, too, have reviewed [306] this plan with our clients and we find that in reviewing the outline, this approach that was presented to the Court, that we are not at this point in a position to comment or take a stand for or against the plan. However, Judge, I would like to make a comment or two which I think are in the context of what we are here about today. No offense to Dr. Estes, but I have heard it said that any bureaucrat, given time and opportunity, can ruin a good idea. I think the same thing could be said about lawyers. I think the Court is here faced with for the first time a plan that apparently has received some support from some members of the minority community as well as some members of the Anglo community. I think the Court has asked the attorneys and the parties to try to be helpful in resolving the controversies that are here today. I feel at times in the course of this litigation, I am a latecomer to the litigation, one of the most recent intervenors, that the reference to the principal parties in this case, the School District and the Class, represented by the Plaintiffs, sometimes leaves the impression that some of the other issues brought into this

case are not of really serious [307] importance, to the order the Court is being asked to make here. I am here to say, and I think the Court understands, that the issue that the clients that I represent are bringing before the Court, the ideas, the evidence, while not directly associated with education are going to be issues that are going to be affected by whatever the Court enters in this case. I am talking about the institution of the City Planning, I am talking about hospitals, I am talking about all forms of city service. Now, it seems to me in that context in an order that is going to be so pervasive throughout our society, our city, it is important that we take an approach that has the possibility of assembling support from all segments of the community.

Now, this new idea that has been presented to the Court involves risk for every party. I am not certain that it doesn't involve risk from my clients more than it does for some of the others. However, I think that it would be wise to go forward and explore this approach and try to determine if there is any feasibility or possibility to it, Your Honor. I may be the first one down here opposing it once it's fleshed out [308] and once it's worked out to see what it really means. But I would really favor, if it please the Court, that there be an effort to flesh this out to determine its feasibility. I also favor, Your Honor, in order to determine the support for the plan at the outset that there be some effort made to bring those who designed this plan before the Court and to make a record as to whether or not they do, in fact, support it, and what they mean by this very broad outline that was presented to us on Monday.

Thank you.

THE COURT:

I believe that's all of the parties.

Well, of course, we had, I believe that I told the attorneys the other day in the office, that I would call on the Task Force to provide a witness in support of or the reasons for the plan. I had interrupted the School District's rebuttal or at least hadn't even permitted it to start. I had told the Curry intervenors that their presentation would be delayed pending examination of the Task Force plan. I have in mind at this time or, by the way, before I forget it, there have been filed with the Court some [309] objections to the Dallas Alliance plan by, as you know, I believe by Mr. Hernandez and also by Mr. Rutledge. Now, I don't know that the attorneys have had copies of that, but I have them in the office. We have made Xerox copies so everybody can have them. There are other matters that have been submitted to the Court and I want the parties and their attorneys to have the benefit of it and they are all in there and you can pick that up as soon as we get through here or take a recess.

I will say this further about the Task Force, the question as to the nature of their status in this case, as you know, I had asked for, as I said I wanted something from these people who were willing to undertake the task of coming up with some sort of a plan that would represent a consensus of a cross section of this community and what resulted was the Task Force of seven blacks, seven browns, and seven whites.

Now, as far as I am concerned, in order to make it official, or give some official status, I am going to pro-

ceed and I will enter an order to the effect that they come in as or they are brought in by the Court as *amicus curiae*. I would like for the parties to state how they wish [310] to proceed. It would be my suggestion right at this moment that we go ahead at this time with the School District's rebuttal if they are ready to proceed, and if they want to proceed at this time, and that we realign and fix another time for the witnesses that the Curry intervenors propose to bring in and the Plaintiffs' rebuttal to that which I understand they wish to present.

Now, I had promised to get somebody from the Dallas Alliance and I will try to arrange that, but I am asking more for the convenience of the parties at this time.

MR. WHITHAM:

I suppose the principal question is what happens, does the School District go forward with rebuttal?

THE COURT:

Yes.

MR. WHITHAM:

The rebuttal that was intended was what I would call portion rebuttal in the sense of data about plans before the Court, therefore, if Dallas Alliance is to be a plan, it might fracture it out some to have to come back into a separate one just on that. What I am about to say may be a very delicate matter with the *amicus curiae* arrangement the Court has in mind, but perhaps in the

interest of what I see going on [311] or at least read of, let me perhaps ask rhetorical questions and make observations. I recognize I am in a sensitive area. If I read the news accounts right there are probably what might be thought of as dissents from certain black Task Force members, certain Mexican-American Task Force, one Anglo member. The question might occur has this group of dedicated citizens done at this point all that they can for the Court and the community and in view of this dissent that seems to be coming up, is the Task Force itself exhibiting some degree of divisiveness and pressures that those of us that live with it certainly know about. Therefore, the thought occurs, and certainly in view of the Plaintiffs' position that much of it is contention and would the community be best served if these dedicated citizens were simply commended for their efforts and the community be not put further through the strain that is inevitably to occur as each party that has concerns about the Dallas Alliance undertakes to fracture it out.

The Court is experienced enough a trial lawyer when you practiced law to have a vision of what is about to happen. Now, those were dedicated [312] people. If they are brought in or if the Court is to pursue their plan it makes them just another party, in effect, here, because the Court, of course, is lawyer enough to know that the game gets played that way. Therefore, I have taken a long way around, Judge, to say, would we be better off not to have just one more student assignment plan, apparently this satisfies no one by agreement, it's a repeat of things that Plaintiffs have already

put on. I say these things knowing full well of the Court's commitment to the business community and of these people and I hope the Court understands what I see coming and couldn't we spare the city that? I think it will be more harmful in the long run in view of what has been stated today that that occur than anything else. I hope you understand the trepidation with which I make these remarks, but I hope the Court understands I am trying to spare the city the turmoil that is going to start once this happens or tell you how we ought to proceed.

THE COURT:

Let me say that I have some of the same trepidations you do. I had asked for this in the office the other day, some group of citizens coming in here writing a letter of the [313] Court and do they have some official status as to what they have done or are we going to get cross-examination or are we going to get to ask somebody where he lives or something of this kind. I thought I might as well put that matter in the record and get it straight.

Now, the parties are going to have the benefit of the communications that the Court has gotten about it, that is, from Mr. Rutledge, Mr. Hernandez, and also a paper from the black community that was filed as a part of the Task Force plan. Now, as far as I am concerned, I wanted the parties to look at the matter and see what this group had come up with in the light of their negotiations.

MR. WHITHAM:

My remarks really suggest with it the good things and bad things. We can take into account whatever negotiations the parties can take part in. My thought was the purpose of telling the Court and the lawyers and the whole community what that group thought has been served but to formalize it in the presentation of a plan with its advocates in that process and make it a part of the record that may have to go forward where the Fifth Circuit perhaps sits back and this [314] may set a record of number of plans before the Court. I am simply trying to avoid that complicated process if the purpose has been served. I think all in this Courtroom know that it's purpose has been served.

THE COURT:

If it's been served, I certainly want to pursue it no further. While in these cases sometimes I guess a question as to whether or not there has been due process arises, that often happens in desegregation cases, but I will leave that to the parties. As Mr. Whitham points out the plan is before the Court and we will leave it that way. If anybody wants to question anybody with that Task Force we will arrange a time for that.

MR. WHITHAM:

Might I also rise to ask, I am hearing the phrase before the court in the sense that it served the purpose of raising the issue.

THE COURT:

Yes.

MR. WHITHAM:

I don't hear that in the sense that the Court is considering it as evidence in this record, that's what I am saying. This Court's decision would be based on what's heard here in Open Court and I recognize that.

THE COURT:

Well, of course, I wanted the [315] parties to consider it. I asked you to do that in connection with your communications back and forth among the lawyers. Well, we will just proceed that way and leave it as it is or call for a witness from the Task Force if and when we want him.

Were you ready to go ahead with your rebuttal?

MR. WHITHAM:

The problem is I think we need to know this. We can't put on our rebuttal until we know whether or not we have got one more plan in evidence.

THE COURT:

Well, let's put it in evidence.

MR. WHITHAM:

The whole cross-examination of how it came about, I was trying to avoid that part of it. I was simply hoping that we have the knowledge and their suggestions and the parties take it into account but it not be another plan before the Court in the formal sense that it becomes adopted by the Court, that the Court finds the evidence of matters from what we have had here. If the Court is disposed that it is a plan before the Court to be

substantiated by evidence, then we would prefer to put off our rebuttal until that plan is before the Court and all the evidence and all the cross-examination. That was the point [316] that I was trying to make. Let's put it out of the Court record, so to speak. Let's thank the interested citizens and be done with it at that point, and to put it perhaps bluntly, or go through the hard labor of just one more plan before the Court and cross-examine the witness. If we take that stance the School Board would prefer to put on its rebuttal afterwards.

MR. MOW:

Might I make one observation without responding directly to his suggestion? I certainly would like to know before any other School Board witness gets on the stand what they think about the feasibility of some of these suggestions which is one of the questions that our group had. If they want to comment on it, I assume they will without having any other testimony in front of them and that's fine with me, but I would like for the Court to know that we want to cross-examine people on what has been proposed and see whether these suggestions have some merit. We would like to explore further some of the answers that will have to come from the school administration in terms of feasibility.

MR. WHITHAM:

Your Honor, under those circumstances, it has to be one more plan presented by [317] witnesses and they will have to be cross-examined. I was simply trying to avoid the turmoil for the city that is inevitably to come.

THE COURT:

Of course, every time we open Court and a witness gets on the stand we have turmoil because the witnesses don't get on that witness stand and all agree with each other, nor anybody else.

MR. DONOHO:

I would like to say that it's unrealistic to say that this plan is not before the Court.

THE COURT:

That is the problem I am having in my own mind. It is before the Court and to this extent it's before all of the parties. It's hard for me to accept the proposition that it's not in evidence. It has been filed with the papers in the case. Now, as I understand it, the school district says it's before the Court and —

MR. WHITHAM:

I would try one more time in my illustration. A plan could be filed, a pleading could be filed and simply abandoned, therefore it ceases to exist as far as being before the Court. The concept has been kicked about here for two or three weeks but if it is before the Court that deeply and before the parties, then [318] I see no other way to go but to proceed like it's one more plan. I simply wanted to avoid that circumstance.

* * * *

TRANSCRIPT OF PROCEEDINGS

VOLUME V

(Number and Title Omitted)

Filed: August 9, 1976

[2] PROCEEDINGS
(February 20th, 1976)

THE COURT:

Are we ready to proceed, gentlemen?

Is Dr. Geisel here? Would you come forward, please,
Doctor, and take the oath.

Will you raise your right hand?

(Witness sworn.)

DR. PAUL GEISEL,

having been produced as a witness at the request of the
Court was duly sworn and testified on his oath as
follows:

COURT EXAMINATION

BY JUDGE TAYLOR:

Q Would you give us your name, please?

A Paul Geisel.

Q And how are you employed at this time?

A I'm the Executive Director of the Dallas Alliance.

Q You are — you have a doctor's degree?

A Yes, I do.

Q And in what?

A I have a PhD in sociology from Vanderbilt Uni-
versity.

Q Where do you live?

[3] A I live in Fort Worth, Texas.

Q And are you employed by some institution of
learning at this time?

A Yes. I am on leave of absence but I continue to
teach at the University of Texas at Arlington.

Q How long have you been teaching there?

A Six years.

Q What do you teach?

A I'm a professor of urban affairs.

Q A Task Force as the Dallas Alliance for which I
believe you said you are the Executive Director, is that
correct?

A Yes, of the Alliance and I serve as the
professional assistant to the Task Force.

Q Well, that Task Force filed with the Court a Plan
for suggesting guidelines for the Court to implement in
connection with its order for the desegregation of the
Dallas Independent School District which is the matter
before us now.

Did you have anything to do with the formation of
that Plan?

A In terms of the specific decisions of the Plan, no.
The Task Force always operated in the context of the
policy decision-makers. My role was to provide to the

Task Force the kinds of information they requested and [4] in that context I did a survey of the national types of programs that were taking place and also tried to find the implementation processes as a recommendation to the Task Force in terms of their desires.

* * * *

Q (Continuing by the Court) Before doing that [5] though, Dr. Geisel, would you give us the benefit of your educational background?

A Well, as I say, my PhD is in sociology from Vanderbilt. The dissertation that I wrote was a study of the educational and aspirational achievement levels of students in the Chatanooga School System and that was a study done in cooperation with Dr. Nolan Estes, at that time, in 1960 when I was at that time employed at Tuskegee Institute. I also was doing a study at that time in the City of Nashville on the question of the decision to desegregate which was an analysis of the question of how do black families make the decisions rather than how do white families respond to it, which was, as I understand it, the first study done to take the question of the black response to the desegregation process.

Following that period, I taught at a number of universities including a period at the University of Pittsburgh at which time I was the Educational Chairman of the NAACP of Allegheny County. And did an analysis of the Pittsburgh Public Schools in terms of racial achievements and racial integration.

From there I worked as a Director of Research in the War On Poverty in Ottawa, Canada and then as professor at Oregon State and then at the University [6] of Texas at Arlington.

* * * *

Q I see. How did — how was this educational Task Force, how was it organized?

A It was organized following a number of meetings at which time the Alliance was considering ways to positively and constructively help the community find a way to accept and deal with this change in the public [7] school system, assuming at that time a rather early order from this Court. Following that it became clear that the community needed to be involved in the whole process of making the decision for their children and that one of the things that could be of genuine help, as it was felt by the leadership of the Alliance, was that the process of trying to get the community input by way of addressing the entire educational issue as well as a pupil assignment issue, could be met and handled. It was also felt that it was necessary to establish an interracial team of people to struggle together to see what kind of consensus we could come to rationally together. At that point Mr. Lowe, the Chairman of the Board of the Dallas Alliance, appointed and constructed a committee or a Task Force of twenty-one persons. It was made up of six black people, seven Mexican-American, one American Indian and seven white.

There was no particular emphasis on the need for these people to be representative in that at the very

first session and in following sessions we attempted to tell everyone that they must work as individuals and they must attempt to represent the kinds of issues and kinds of needs and dreams for the educational attainment of our children in the City of Dallas. This was an extremely heavy weight, I think, that was placed [8] on people.

Q You mean the people on the Task Force?

A Yes. And I think the experiences which they had while the news media tend to give them some highlights these days of being in disagreement, I would like to emphasize that this I think was a heavy burden that these people carried. I think they carried it very well and I think the commitment to the proposal we had submitted to the Court is overwhelming. A firm nineteen out of twenty-one persons and I think more than that, even the two who have indicated disagreement are in substantive agreement with the process and are firm supporters of this entire notion that the community should have a voice in the process.

THE COURT:

The names of the people who serve on that Task Force I believe are on one of the documents that was given to the Court which is entitled A Public Statement of the Education Task Force of the Dallas Alliance. I will ask if somebody will let the Court Reporter mark this as an exhibit and hand it to Dr. Geisel.

(Whereupon the aforementioned instrument was marked Court Exhibit No. 1 for purposes of identification.)

THE COURT:

All right, would you hand that to [9] Dr. Geisel?

Q (Continuing by the Court) Dr. Geisel, that was filed with the Plan, that's your understanding?

A Yes.

Q Now, the names of the people on the Task Force I believe are on the second page.

A Yes.

THE COURT:

Well, that is before the Court and if you want to make an objection to it, as I say, that is before the Court. Of course, this is just one of the exhibits.

MR. WHITHAM:

Yes, sir. If it would facilitate things, if the Court wanted to go ahead and mark all of them then the remarks that I would make in an objection would be directed to all of them.

THE COURT:

All right. Well, there's also a synopsis of the Plan which was handed to me as well as a copy of the Plan itself. Let them all be marked.

(Whereupon the aforementioned instruments were marked Court Exhibit Nos. 2 thru 7 for purposes of identification.)

MR. WHITHAM:

I take it that as soon as the marking process is complete the Court would hear the objections?

* * * *

[21] Q (Continuing by the Court) Now, Dr. Geisel, I understood you — now when did you actually go to work with this Task Force?

A In the middle of October.

Q Middle of October?

A Yes.

Q How did that Task Force operate? Did it meet [22] at stated intervals? How did it work?

A It met on a regular basis every Tuesday evening for an extended period up until about December 16th. In the first process we were briefed by school people, we were briefed by city officials. I traveled throughout the country to meet with various leading figures in the field of desegregating of public schools in America.

Q Where did you go?

A I went to Washington, I went to various places —

Q Washington, D.C.?

A Yes. I was to have gone to New York but it turned out the consultant from New York came to Dallas. So I met with him here. I talked by phone extensively with people in Atlanta, Charlotte-Mecklenburg, Jacksonville, Florida. Altogether I think I saw approximately thirty different people who are leading figures in this process nationally and tried to take their advice. I then came back to the Committee, made a report on the kinds of ideas and the kinds of processes used to desegregate schools and the kinds of issues that are involved. They had already been briefed, as I said, on what was happening in the city and kinds of issues that were germane here. We then also discussed the whole kinds of set of strategies that were involved in

these [23] things and some ideas. They then, as a group, articulated their questions and their desires and their kind of what they felt were the appropriate guidelines for us to proceed on and that was done on Tuesday evening of December 16th. I was then given until January 6th to attempt to formulate and develop and flesh out what the proposals would look like if they were turned in as proposals for a desegregation plan.

I then worked extensively and with marvelous cooperation with the people at the Dallas Independent School District who were extremely helpful. They did not agree in some instances with some of the proposals but were very cooperative in providing all the information that we needed. And we had a workbook at that time prepared.

Q Had a what?

A A workbook. That was distributed to each of the Task Force members to show them the implications and the full elaborations of what the ideas looked like at that time. Considerable discussion then followed that presentation and the Task Force at that point began meeting on Tuesday nights as well as on Saturdays and in many instances on Sundays. So altogether this Task Force spent, we estimate, about fifteen hundred hours together. They knew more about one another than I think [24] they sometimes wanted to know but they did have an opportunity to go up and down on various kinds of issues and had a rather thorough understanding of what they were dealing with.

Q Are you suggesting that they were not all in agreement throughout all of their —

A No, I wouldn't say there was always considerable disagreement, but a large part of that I think is due to the fact one of the burdens which I mentioned earlier and secondly to the issue of a good deal of confusion in different ways of looking at these kinds of issues, and it takes a while and there was pressure here. Altogether I would say that the — as I have made the point earlier, as well as the attitudes and communication that was achieved in the final analysis could not be highlighted greater. These people did come to a consensus. They did come to a community of the mind and they did come to an understanding of what each was attempting to achieve.

Q You spoke of consensus. So that the record is complete, I did, on the evening of I believe that was Monday, the 16th —

A Uh-huh.

* * * *

[48] Q (Continuing by the Court) As you told us, you [49] divided — the city was divided into five pieces of pie.

A Yes.

Q The School District was.

A Yes.

Q And you left South Oak Cliff. Now, as I would look at that map, it would leave South Oak Cliff all black, I believe that would be.

A Essentially.

Q What was the reason — was there any reason for that?

A The reason that had to do with two components, I believe. One was the issue of attempting to — not to do cross town busing or do busing that required a travel time of greater than thirty minutes. The second reality was that the nature of the present racial migration and movement in the city is both to the southeast and to the southwest. And that if we could bring special magnet programs into that particular district that would be district-wide, we have proposed for example that middle school magnets be there. We've also proposed that the centrality system of the high schools be such that the greatest accessibility would be for that area to enter into one of those areas. In other words, in order to maintain the balances that exist and the way to find [50] accessibility for all of those students into the entire system at a convenient position of some technical feasibility we have attempted to focus the program orientation in their direction.

THE COURT:

I see. All right, gentlemen, you may question Dr. Geisel.

I assume the order that we've been following, unless somebody wants to defer to somebody else. Toss a coin to see who goes first.

MR. CLOUTMAN:

I nominate Mr. Whitham, Your Honor.

CROSS EXAMINATION

BY MR. WHITHAM:

Q Dr. Geisel, what is the Dallas Task Force? How is it composed?

I'm sorry, let's start at the beginning. Could you describe for me the organization of Dallas Alliance? What is it?

A The Dallas Alliance is a community service organization whose intent is to act upon urban issues of the total city and county. It's made up of a Board of forty persons, sixty of whom represent governmental entities in various ways, twenty-four in the community at large representing the business community, citizens at large and to represent racial and other groups accord- [51] ing to their proportion in the population.

Q Well, I take it then it has some form of general membership made up of individual persons and also made up of organizational entities, is that correct?

A Well, the organizations that cooperate with us, as we call cooperative organizations, are not in any way constrained by the actions of the Alliance.

Q I didn't ask you that, sir.

A Okay, all right.

Q Is Dallas Alliance made up of a list of individuals — do you have a list of persons that belong to Dallas Alliance?

A I don't know if I have a list with me.

Q Is there such a list?

A Yes, there is.

Q A membership list?

A Yes, there is. It's a Board of forty trustees.

THE COURT:

It's what?

THE WITNESS:

It's a Board of forty trustees.

Q Well, now, that's what I'm trying to get at. Is Dallas Alliance a Board of persons or is Dallas Alliance an organization that has a membership of individuals that then elect a Board? I'm trying to determine its structure.

A It is a Board.

[52] Q All right. Now, the Board then would be the list of individual members, is that correct?

A That's correct.

Q Now, at the noon recess could you produce a list of that Board of individual members?

A Certainly.

Q Would you do that, please, sir?

A Certainly.

Q Now, in addition to Board membership of individuals, are there organizations that compose Dallas Alliance by membership therein?

A The term membership is inappropriate in this instance. They are cooperating organizations with whom we communicate and with whom we gather input together with various other proposals for action.

Q Now by we do you mean the Board?

A Dallas Alliance, yes.

Q As composed of this Board?

A Yes.

Q And the Board is some forty persons?

A Yes.

Q All right. So Dallas Alliance is a Board of individuals consisting of some forty persons and that Board of forty persons then has outside organizations with whom it communicates.

[53] A Yes.

Q Now, what is the basis of that communication? Is it just you need some information from an organization so you write them a letter or is it a more permanent type organization relationship?

A Some of this is emergent.

Q Is what?

A Is emergent and we're developing a process so I wish to couch my answer as a permanent recognizing at any moment that which is presently permanent will be changed to more — to be a more facilitative process. At present there are seventy-seven correspondent organizations to the Dallas Alliance.

Q Now, do they become correspondent to Dallas Alliance by reason of some prior arrangement between the forty-man Board and those organizations?

A They become correspondents after being briefed on the purposes of the Alliance and asked whether they would like to, in a cooperative manner, deal with our Task Forces or participate with us or have input with us or respond in some way. It's in no way a commitment on them that they must act necessarily as we do.

Q All right. Do I understand, perhaps from your answer, that Dallas Alliance has various Task Force directed to various interests in urban affairs?

[54] A Yes.

Q That as to a given interest in urban affairs a given Task Force might then seek communications with some outside organization.

A Yes.

Q And that outside organization would be identified for that particular Task Force in some form of communication would work between the Task Force and that organization?

A Yes.

Q So the outside organizations that we speak of are simply entities both business and governmental that provide a system for input for help to various Task Force — Task Forces as they are about their business?

A Yes and no.

Q All right. Let's try the yes part of it and then the no part of it.

A If you're asking a particular reference to the Education Task Force the answer is yes in the sense of consulting. With regard to the other two Task Forces presently in operation, Criminal Justice System and Neighborhood Regeneration and Maintenance, in this regard large numbers of persons from the correspondent organizations do participate as Task Force members per se.

[55] Q All right. There are then three Task Forces in operation now, Education, Criminal Justice and Neighborhood what?

A Regeneration.

Q Neighborhood Regeneration?

A Uh-huh.

Q Now, who are the organizational consultants to the Educational Task Force?

A You mean which groups in particular?

Q Yes, sir.

A I cannot identify those for these were left to the liberty of the individual Task Force members to consult with those groups they felt could be most helpful in guiding them.

Q Well now, let me stop you right there so that I understand, please.

A Okay.

Q And I did not mean to cut you off, if you will please understand.

The Task Force — Dallas Alliance has three Task Forces. One of them is this Educational Task Force. And that Educational Task Force in itself as an entity and Dallas Alliance as an entity did not arrange for any outside organization to be one of its consultants but rather left that to the individual [56] members of the Task Force?

A Yes.

* * * *

[59] Q And with the one exception you just mentioned as to Mr. Jack Lowe, you would not be able to identify the cooperating organizations contacted by any of the other members of the Dallas Alliance Task Force?

A No, I would not although I know it was made.

Q Now, you came with Dallas Alliance in October of '75?

A No, I came in August.

Q August of '75, as its Executive Director?

A Yes.

Q Now, at that time did it have — did Dallas Alliance have an Educational Task Force?

A No, it did not.

Q When was the Educational Task Force constituted as a Task Force?

A I believe it was in the middle of October, but I cannot give you the specific date.

Q All right.

A I'm sure I have that on record, but I do not recall the specific date.

Q Would you bring, over the noon hour, the specific date of the formulation for the Dallas Alliance Task Force?

A What I can refer to is the date that the Task Force was authorized as a Task Force, namely from the [60] Dallas Alliance Board meeting of that month.

* * * *

[61] Q Do the minutes that you're going to produce reflect who was in attendance?

A Yes, they do.

Q Do you recall at that meeting who made the proposal for the creation of the Dallas Alliance Education Task Force?

A The proposal was presented by Mr. Lowe as Chairman of the Board of the Dallas Alliance.

Q Did any other person speak in favor of the creation of the Educational Task Force at that meeting?

A There was considerable discussion, as I recall. I think once we see the minutes we will see in particular those who do.

Q Do the minutes reflect who spoke or at least a summary of their remarks?

A A summary of their remarks will be in the minutes as particular individuals made particular proposals, that is part of our ordinary minutes.

Q Do you recall whether Mr. Lowe was the only speaker or were there others present who spoke?

A There were a number of others.

Q How long did that meeting last or will that be shown on —

A That will also — I don't know if that's shown [62] on our minutes or not. The length of the time that our meetings took place, does it say how long it was? Fine, yes, it will show.

Q It will show?

A It will show.

Q How did Dallas Alliance at that meeting authorize the creation of the Education Task Force? How did they go about creating the persons to serve on the Board?

A A list was submitted to the Dallas Alliance Board of a committee which had been formed and they authorized that group to serve as the Task Force.

Q All right. Then I understand that — am I un-

derstanding you correctly that some person brought to the Board a list of persons to serve on the Task Force that had already been prepared?

A Yes, as a committee who had been working or had formed themselves to begin working on this question and that committee requested themselves that they be considered a Task Force of the Dallas Alliance rather than as an independent process.

Q All right, as I understand it then, was it a group of — were all twenty-one members of the then Dallas Alliance Educational Task Force in attendance at this meeting that created the Task Force?

A I don't think so. I think those members who [63] are members of the Board were there.

* * * *

[64] Q All right.

A Charles Cullum.

Q Thank you.

A Juanita Elder. David Fox. Now, I make a comment now; as later action of the nomination — regular nomination procedure of the Dallas Alliance Board, two persons here became members of this Board.

Q Let's come back to them.

A Okay, so I will skip them. Walter Human.

Q Thank you.

A Jack Lowe, Sr.

Q Thank you.

A Rene Martinez. Randy Ratliff. Now, there were two —

Q You've completed the list of the initial members?

A Of the initial members.

Q All right, sir. Then go back and give me the persons who subsequently became members of the Dallas Alliance Board from the list of the Educational Task Force.

A Lupe Gonzalez.

Q Okay.

A And H. Ron White.

Q So by my rough count there were nine persons [65] now serving on the Education Task Force who were then members of the Dallas Alliance Board?

A That's correct, I believe.

Q All right. Now, some of those nine — all or some of them were present at this meeting when the Task Force was created, this meeting of Dallas Alliance when the Task Force was created and this group of nine or some of this group of nine had then in their hand a list of persons to compose the Education Task Force, is that correct?

A Yes, with the exception of one person.

Q Who was off the list?

A No, who was on this list at this time but was not on the initial list.

Q Okay, was — is there somebody on the initial list who resigned?

A No.

Q All right. Was a person subsequently added to the list?

A Yes.

Q Which person shown on Court's Exhibit Number 1 second page, was subsequently added to the list?

A Juanita Elder.

Q Juanita Elder?

A Yes.

[66] Q So I take it then that Juanita Elder having been given as an initial member of the Dallas Alliance in your enumeration was not on the initial list though a member of Dallas Alliance —

A That is correct.

Q — but subsequently became a member of the Task Force?

A Yes.

Q I correctly understand that?

A Yes.

Q Thank you.

Why was — in other words, there was no resignation, they just wanted to add an extra person, is that what happened?

A We wanted to add a representative of the American Indian community.

Q Now, the list that was prepared of the proposed Education Task Force offered to the meeting we are discussing held by Dallas Alliance, had been arranged in advance, I take it? Were the names written on a piece of paper?

A I don't recall how they were presented.

Q Or did someone stand up and simply read off the list of names proposed?

A I'm sorry, I really don't recall how it [67] happened.

* * * *

Q All right. So even before the Dallas Alliance in October at its meeting constituted an Educational Task Force, there was in existence some committee of the [68] Dallas Alliance?

A There was a committee, not necessarily of the Dallas Alliance. It was a committee —

Q All right, a committee of whom, then?

A A committee of a number of members of the Dallas Alliance and a number of community representatives working together. At that time they were not a formal part of the program of the Dallas Alliance but were merely exploring together what kind of a process, what kind of a procedure they might follow in developing an Educational Plan.

Q Well, if these persons on the committee were not a part of the Dallas Alliance, were they just a group of citizens? How would you categorize this committee?

A Categorize it as a group of citizens of which a large number were members of the Dallas Alliance Board.

Q All right. So sometime prior to October there was a group of citizens, some of whom belonged to Dallas Alliance and some of whom did not had constituted themselves together to look into some matters with respect to education in the Dallas Independent School District, is that fair?

A Yes.

Q All right. Do you know who that committee was? [69] I'll call it the Committee as distinguished from the Task Force. Was it composed of whom?

A Of twenty of the persons identified here.

Q And would that be all of the twenty except Juanita Elder?

A Yes. I believe they all had the opportunity to come together. I stand to be corrected, there may be one person who didn't attend all of the previous meetings.

Q Now, what did you understand this Committee of citizens to be inquiring into or concerned with before they came to Dallas Alliance?

A I think they were inquiring into whether such a process was possible.

Q And by such a process, what do you have reference to?

A The development of a desegregation plan. And I think they were exploring the best ways that that might be accomplished and how they might be organized.

Q You don't know whether that Committee of those citizens are the sole and only group of citizens within the Dallas Independent School District who might be concerned with how to arrive at a solution to the desegregation process, do you?

A I would know for a fact that every citizen in the City of Dallas is concerned with the educational [70] quality of the Dallas Independent School District.

* * * *

[75] Q Direction or charge?

A Yeah, the charge was made.

Q What charge was given the Education Task Force by Dallas Alliance upon its creation?

A To attempt to design a plan for the school system.

Q What type of plan for the school system, a plan to do what for the school system?

A I don't know that the specific language is in the minutes, and I cannot recall the specific words. I can speak, I think, in relation to the intent of the comments.

Q Assuming —

A Which was that —

Q Assuming that the record might be clearer in the minutes, what is your understanding of the intent of the charge?

A Okay —

Q As it describes the quote, plan, end quote?

A At that meeting Mr. Lowe presented the five purposes which I have earlier responded to and that became the charge of this Committee.

Q And by that, we have reference to they were charged to find a means to provide the best educational opportunities for the children?

[76] A Yes.

* * * *

[101] Q So you're recommending to the Court discontinu- [102] ance of the Tri-Ethnic Committee as an effective means?

A Yes.

Q I was not quite certain what your response was to the Court when the Court asked you what a "Concensus" was. What is a concensus agreement or recommendation or decision?

A That's a very tough question and it's one over which this Task Force wrestled for some time.

I would suggest that I think the word "Vast Majority" is inappropriate.

Q The word what?

A "Vast majority" is inappropriate. It is really a meeting of the minds that we have a proposal to submit.

Q Is it a bare majority?

A In this instance it is anything but a bare majority.

Q It is what?

A Anything but a bare majority. I would suggest, as I said earlier, that this proposal as submitted reflects the support of nineteen of the twenty-one members firmly and of the two who have indicated some reservations, their response are reservations to certain portions and not the entire proposal.

* * * *

[103] Q Well, to determine then whether they supported [104] it, how was that determination made, in a group meeting or on an individual approach basis?

A It was done on an individual approach basis following this past Monday.

Q Following this past Monday?

A Yes.

Q What occurred on this past Monday?

A The Plan was submitted to the Court.

Q And then subsequent to submission to the Court then the proposal was taken to the members of the Task Force on an individual basis; is that correct?

A Sixteen of the members of the Task Force presented it to the Judge on Monday evening. The remaining three and their support we learned of later.

Q But, before it was submitted to the Court there was no vote of the Task Force?

A There was a meeting on the Sunday before the Monday at which the general content of the Plan and the concepts of the Plan were approved. A vote per se was not taken at that time, there was a general consensus in the room.

Q Well, if you would get before you the Court's Exhibit 1, 2 and 3.

A Yes.

* * *

[132] Q Do I understand that all School District personnel except for the one hundred and eighty-five top salaried line administrators are to be employed over the given period of years on a racial ratio basis based on general population by race in the Dallas Independent School District as distinguished from student composites [133] of the Dallas Independent School District?

A Yes, I would agree with that with one exception.

Q And that is what?

A We have not used the boundaries of the Dallas Independent School District for purposes of the racial balance, we have used the City of Dallas borders.

Q All right. With that explanation, then, I at least have in my mind around what population you base the quotas on?

A Yes.

Q All right. But, with respect to the one hundred and eighty-five people who have worked their way to the top of the District, their employment as determined within the given number of years is to be based on the racial — the racial ratio of students attending the Dallas Independent School District and not general population by ethnic origin within the City of Dallas?

A That's correct.

Q Was this particular personnel concept we're dealing with now as to the top one hundred and eighty-five administrators early or new to the contemplated proposals of Dallas Alliance's Educational Task Force?

A By what would you refer to as "Early"?

Q In the initial discussions?

A No.

[134] Q In the later discussions?

A Yes.

Q How late?

A In the last week, although an adapted form of this had been seen by the Committee I think about the second week of January.

Q By "Last week", does that refer to the period of time after negotiations within the Task Force appeared to have broken down?

A Yes.

Q Is this matter of what to do with the one hundred and eighty-five top salaried line administration positions the matter upon which the Task Force finally came together and was able to arrive at a consensus you speak of?

A This was one of the issues around which consensus was achieved, yes.

Q What was the other?

A All of them.

Q All of the others in the Plan before they came back together the last week?

A There was not a Plan before we came back together in the last week. There were a number of points on which some form of consensus was apparent but had not been assured.

[135] Q Could you detail for me the points of disagreement that caused the Task Force efforts to appear to have broken down?

A The disagreement was over —

MR. MOW:

Your Honor, could I, at this point, maybe impose a Warren Whitham objection for two reasons on this? It seems to me that the questions as to negotiations within the group really aren't relevant to the Plan that's presented. Secondly, I suspect if the group were here with an attorney he might well object on the grounds that their inter-negotiations as to what brought about certain points would be privileged, if not irrelevant, and I think we may spend an awful lot of time here if we get into who bargained for what and why with respect to this group.

THE COURT:

Well, I have considerable doubt about its relevance; however, I'll overrule the objection. Go ahead.

A What was your last question? I'm sorry.

Q (By Mr. Whitham) I don't even remember.

THE COURT:

Well, it had to do with the negotiations and who was contending for what. Isn't that about what it is?

Q (By Mr. Whitham) Yes, what were the points at [136] which it broke down on?

A I believe we broke down — and I would like to make a comment at this point as an interpretive comment. We had been meeting at one point for close to sixteen straight hours and so there was considerable exhaustion. If you wanted my personal opinion as to why we broke down I would say that we met too long.

Now, having said that, the particular issue on which we came apart was a debate between two forms of assignment on the 9-12 level.

Q And what were those two forms?

A One was a busing plan and one was a redesigning of the attendance zone option.

Q What was the busing plan concept; what did it entail?

A It entailed for those students who did not attend the magnets that within their areas they would be bused to the respective campuses to achieve racial balance or minority balance plus or minus ten percent.

Q And that concept apparently did not prevail in the ultimate Plan?

A No, it did not.

Q And would it be fair to say, then, that in exchange for that we came to the personnel quota arrangements reflected on page seven?

[137] A No, I don't think that would be a fair statement.

Q If not perhaps fair in your judgment, is it at least an appropriate observation on the way the process was arrived at?

A You could come to that observation, I do not.

Q All right.

A That infers that negotiations of various forms were taking place throughout this in terms of give and take and that was not the process.

Q There was no trading going on, I take it, in the Task Force meetings?

A I'm sure there was trading going on in terms of the discussions but I think in the final analysis twenty-one people voted as individuals.

Q All right. On page eight, again under personnel and their competency assessment, do you see paragraph two? What is the "Students' Education Plan" referred to in paragraph two on page eight?

A This was in the original draft and because of the attempt of the editing committee to put the entire proposal in generic form the individual education plan did not appear in the document before the Court. The document that has been submitted by the black members of the Task Force includes the education plan procedure I [138] believe, and if not, I have it. It was to have been included as a supplement to the proposal as an example of an education plan process.

* * *

[173] CROSS EXAMINATION

BY MR. CLOUTMAN:

* * *

[212] Q Is there any particular reason for that level of staffing one way or another?

[213] A Yes. I think the committee here had in mind the notion of final accountability in the context of being responsible and in positions of responsibility and minority persons to be a part of the decision-making process, to be effectively making the decisions germane to the actions and so forth of the District with regard to the meeting of the resources and of the meeting of the requirements for educational attainment for their children.

Q The testimony earlier, upon questions by Mr. Whitham in this area, was that you would not describe the inclusion of the second personnel provision — that is, the top administrative staff — as a trade-out for less student assignment?

A No. It was a late proposal but I would not call it a trade-out.

Q Well, let's see if I can understand then. The negotiations as I understood them between the Task Force broke down over student assignment and what to do about the student assignment I think at the high school level?

A Yes.

Q They resumed upon this proposal being accepted

by some Anglo persons on the Task Force; is that correct?

A Well, that's a way to read it. I think to infer that this was a particular kind of compromise in [214] that context is not entirely accurate. We have had proposals flying at us for months, this was just another proposal.

Now, the fact that its timing came at this particular time — and I'm not attempting in any way to dilute the Court or lead you astray from the conclusion which is obviously apparent — it seems to be apparent, but that is not exactly how it took place. It was a proposal which as I recall was received on Thursday night or before the Sunday and then came again on Sunday and —

Q But it is a fact —

A — it was agreed upon.

Q It was a fact that once that was agreed upon that student assignment at the high school level was left to the neighborhood pattern assignment, as you have described it, given the magnet concepts which would be in existence?

A Yes. However, let me assure again that the Task Force was called back together by the Dallas Alliance Board, so that it did not come together to compromise or not to compromise, it came back together upon direction of the Dallas Alliance.

Q I'm just pointing out, and I think it's in the record, I believe, that after they did come back together [215] those two things happened and they happened almost at the same time?

A Yes, they did, and that's a fact. No denying it.

Q Yes, sir. What guidelines would you offer the Court for new construction as you have indicated? You

say that new construction at all levels should promote the —

A Racial integration?

Q — unitary school concept?

A Yes.

Q What guidelines would you offer the Court for securing or for insuring that kind of construction program?

A Well, I think the concepts that we're dealing with here in terms of centrality by area and the concepts of centrality for the total City for nine through twelve offer neutral turfs in all instances, at least for K-3 on, for a logic on how to appropriately plan and distribute resources in such a way that those resources will never in the future be in a form that is discriminatory; that is, not accessible to all students of the District.

* * * *

[226]

PROCEEDINGS
(February 23, 1976)

THE COURT:

All right, let's proceed.

MR. CLOUTMAN:

Your Honor, I think it was left that I would reserve further examinations after looking at these documents Dr. Geisel supplied us. And I at this time have no questions regarding those although I do understand other attorneys might. I will pass the witness.

THE COURT:

All right.

MR. CUNNINGHAM:

May it please the Court.

THE COURT:

Mr. Cunningham?

CROSS EXAMINATION

BY MR. CUNNINGHAM:

Q Dr. Geisel, my name is Brice Cunningham. I represent the National Association for the NAACP and I would like to ask you several questions concerning the Plan that was presented by the Task Force of the Dallas Alliance.

I believe in answer to some questions from Mr. Whitham and according to a roster that was furnished to us, there are approximately forty members of the Board of Trustees of the Dallas Alliance?

A Yes.

Q And I believe that — state whether or not the [227] breakdown — in other words, how many blacks, how many Anglos or whites, how many Mexican-Americans, how many Indians?

A I believe at this time it's eleven black, four Mexican-American, one Indian and the remainder Anglo.

Q And the committee that met prior to the authorization of the Dallas Alliance Education Task

Force was — how many composed that committee and what was the ethnic makeup of that committee?

A I think I made it clear that that was not a committee.

Q Well, that group.

A Of the Alliance, and that was a group of persons who were exploring whether this would be an activity of the Alliance.

Q Well, this group or committee or these persons was there any particular makeup of this group of persons?

A That would depend on when you're talking about.

Q Prior to October 23rd, 1975.

A I think it essentially was four persons not necessarily at that time even exploring it from the perspective of the Dallas Alliance, four Anglo.

* * * *

[369]

EXAMINATION

BY THE COURT:

Q Dr. Geisel, I understood you to say that the Task Force got consultation from some thirty experts.

A About that. I have counted up and I think I have about twenty-nine or thirty on my list, yes.

Q Can you tell us who they were?

A I have it with me somewhere if you will give me a moment. I have them written down on a sheet and it

will take me just a moment to find them. Now, not all of these were persons who came or wrote us, some were and some weren't. Some we had to handle by phone.

THE COURT:

I am interested in how the Task Force went about this. Were they interested in talking to people who were skilled in the field of education or skilled in the field of desegregation?

A Both.

[370] Q Were they trying to get an overall view?

A Very much an overall view, most of these persons were persons that I contacted personally. In rare instances the consultants dealt directly with the Task Force themselves. Dr. Cardenas, who has testified in this case before, Dr. Horatio Reberree from New Mexico.

Q From New Mexico?

A From New Mexico and formerly associated with the Dallas Independent School District. They both met with the Task Force. Other persons included Dr. Robert Green, Dean of the College of Urban Development at Michigan State; Dr. Harold Gores, Educational Facilities Laboratory; Dr. Frank Rose, who is the Executive Director of the Lamar Society of the University Associates in Washington; Dr. Thomas Pettigrew, who is presently on leave from Stanford who is a leading sociologist in this area; Dr. Rudolpho Alvarez at UCLA, Professor of Sociology in Chicano studies; Wilson Rice, who we referred to earlier.

Q He is the Superintendent of Education in California?

A Yes, State Superintendent of Public Instruction and two of his assistants came here to Dallas and spent a full day with the Task Force and they were Davis Campbell and Marion Joseph, his two principal aides. [371] And they were here for two full days and met a full day with the School District personnel as well as meeting Saturday with the entire Task Force in retreat form. Another person from California was Ray Martinez, Superintendent of Instruction at Pasadena; Jim Taylor and Ron Prescott, both of whom are officials in the Los Angeles School District; Robert Nicewander who is with the United States Office of Education; Marshall Smith and Dennis Doyle of the National Institute of Education; Mr. Jack Troutman, who is a local consultant who worked with us; Dr. Julius Truelson, former president of the Great Cities School Systems and former superintendent of the schools in Fort Worth; the research and superintendent's staff of the Fort Worth Independent School District have been very helpful; the superintendents in Sacramento, San Francisco and so forth, Charlotte have been very helpful, the City Planning Department of the City of Dallas was very, very helpful in providing materials and meeting with the Task Force. I have got some others. It goes on. I don't know how many I have named here.

We did attempt to reach Wilbur Cohen and he is next to impossible to reach. Laverne Cunningham in San Francisco and Ohio State was very helpful. We maintained contact there. Dr. Earl Lewis, previously [372] referred to, gave us a report. I am sure I have missed some of the people but these are people that I have

listed here that have had direct contact with me. I believe that's it. There is another individual who is local who has since left the country is Dr. Richard Andrew.

Q Something was said somewhere about Dr. Leon Lessinger.

A Dr. Lessinger met with the people with the Dallas Chamber of Commerce trying to work toward the issue of accountability and then I met with Dr. Lessinger and further contacts were made with him.

Q Now, who is he and where is he?

A He is the Dean of the College of Education of the University of South Carolina and he has been instrumental in helping develop accountability systems in South Carolina, Colorado and Hawaii.

Q In the school systems?

A Yes.

Q Was this Task Force getting information from all of these experts either directly or through you?

A Yes.

Q Did they ask for this information?

A Yes.

Q Did the Task Force approach this as representative [373] ing any one group, that is blacks or browns or whites or just how did they go about it? Were they espousing any particular cause or one neighborhood or another neighborhood or one school or another school?

A No. They created a list of persons they wanted me to meet and to consult with as well and these came in from numerous sources. We talked to an awful lot of local people as well. Then I was sent on a national trip to

try to see as many of them as possible of those where felt necessary or helpful and have them come in. And we did that in the context of the time constraints and never once do I think we broke apart from the total city.

Q The total city?

A The total city.

Q The whole thing?

A That's right.

Q Well, what the Task Force came up with then is unique in the sense that you didn't imitate or copy any other city, is that right?

A That's correct.

Q But you did examine the systems in a good many different cities?

A Yes.

Q Was this done with a view to the nature of [374] Dallas and this community, this city, the composite of information that you got?

A Well, the twenty-one persons, as I said earlier, many of whom have extensive community experience in Dallas and others of whom had extensive experience with the School District itself, I think after the first few weeks began to cooperate and operate as a group, as a whole regardless of race. We were concerned with the total city. Now, they attempted to bring Dallas components in. We have talked a good deal the last two days of the early childhood educational model, the model proposed is one that is used in California although it takes many of the ingredients we had to adopt it to the Dallas interpretation in the context of what we understand the DISD to be doing and be capable of doing so

that it would work and there have been many adaptations to the local area.

THE COURT:

Thank you.

MR. WHITHAM:

Your Honor, the witness yesterday evening and this morning furnished me various documents that I had asked for and I would propose to limit the questions that I might now ask just to those and perhaps those suggested by the Court's questions as well as the documents presented to him.

THE COURT:

All right.

[375] EXAMINATION

BY MR. WHITHAM:

* * * *

[387] Q Dr. Geisel, I will hand you what has been marked as Defendant's Exhibit Number 17 and I will ask you if you can identify that as a copy of the minutes of a called Board meeting October 23rd, 1975 of the Dallas Alliance as revised November 10, 1975?

A That's correct.

MR. WHITHAM:

We offer in evidence Defendant's Exhibit Number 17, Your Honor.

THE COURT:

It's admitted.

Q Dr. Geisel, I will hand you what has been marked as Defendant's Exhibit Number 19 and I will ask you if you can identify that as the copy of the minutes of the Dallas Alliance of October 23, 1975 prior to the revision of November 10, 1975?

A That's correct.

MR. WHITHAM:

We offer in evidence Defendant's Exhibit 19, Your Honor.

THE COURT:

It's admitted.

Q Would you please turn to the second pages of both Defendant's Exhibits 17 and 19?

A Yes.

[388] Q On the second page near the bottom appears a list of five precepts or concepts that the Dallas Alliance considered at its October 23, 1975 meeting, does it not?

A Yes.

Q Now, incidentally, are you the person with the Dallas Alliance in charge of the preparation of the minutes of the meetings?

A Yes, I am responsible. I did not take these minutes.

Q But you're responsible for them?

A Yes.

Q Were you responsible for the preparation and distribution of Plaintiff's Exhibits 17 and 19?

A Yes, although I did not — see, we had at that time

Q I can't hear you, sir.

A We had at that time a temporary administrative assistant secretary, Mrs. Willis, who had never attended one of our meetings before. I was traveling at that time a great deal and she sent these minutes out before I had an opportunity to review them and that's why they were revised. She did not get all of the notations down exactly as it happened. It was her first meeting and her only meeting and she was not able to describe everything in the correct form.

* * *

TRANSCRIPT OF PROCEEDINGS

VOLUME VIII

(Number and Title Omitted)

Filed: November 15, 1976

* * *

[331] SUSAN MURPHY,
called as a witness in behalf of the Brinegar Intervenors, being duly sworn, testified on her oath as follows:

DIRECT EXAMINATION

BY MR. DONOHUE:

* * *

[332] Q Give us a kind of chronology of the work you have done with the City Planning Department.

A My educational background is that I have a bachelor of architectural degree, a one hundred eighty hour degree with much emphasis in urban planning, from Tulane University in Louisiana. With the City of Dallas I first was employed in what was called the Advance Planning Section, which is still essentially the same thing I am in now, in that it dealt with problems in various communities. I have worked on several federally funded projects. I was the one that was in charge of preparing the new census tracts for the 1970 census. I headed up the address coding for the 1970 census. I worked in the community analysis program which was federally funded and helped produce a community series of reports. My prime planning experience since 1969 has been working with what we call the Interim Comprehensive Planning Program that involves citizen participation in communities throughout the City of Dallas.

Q Before we go any further, Mrs. Murphy, could you tell us what the name of your department is?

A The Department of Urban Planning, City of Dallas and I head up the Community Plans Division.

* * *

[344] Q What is the community analysis program?

A The community analysis program was involved with some twenty-eight or twenty-nine studies. There [345] was a series of community studies done on every community in the City of Dallas. A special study was done on the inner-city. There was a housing study, there was an economic study done, just almost an across-the-board evaluation of all types of, I don't want to say problems, but situations within the City of Dallas.

Q All right. Specifically what did these studies result in in the East Dallas area?

A In the East Dallas area it resulted in the establishment of the East Dallas demonstration project which was a pilot program designed to investigate and address the problems of the inner-city communities and hopefully implement action that would help turn these communities around.

Q Okay. What specifically did that mean in the East Dallas area?

A In the East Dallas area the funding for the East Dallas demonstration project rested with the Department of Housing and Urban Rehabilitation. It meant increased code enforcement, it meant the establishment of a small city office in the Old Lakewood library which is still in operation. It meant many meetings with the citizens group that we had established out there in trying to determine their specific problems. It involved taking of a special survey to update data [346] in the community.

As far as other than code enforcement, of course, there has been the creation of the Swiss Avenue

Historical District which has had a tremendous effect on the whole East Dallas area in that the Historical District has encouraged new young families to buy into the area. It encouraged the citizens and the citizens committee to look at their problems, come up with solutions to make application for community development act funds to address the problems of the community.

Q And are these programs in East Dallas still going on?

A Yes, they are still going on.

Q I believe you even had a meeting last night?

A That is correct, I met with a group last night.

Q What was the purpose of that meeting?

A The purpose of that meeting is a continuing process of trying to address their problems. For example at the meeting last night we had presented to us petitions to be presented to the City Planning Commission for considering for proper zoning in portions of the East Dallas community. We had petitions of about four hundred fifty-six names turned over to us last night. These people are actively pursuing their problems.

[347] Q All right. Mrs. Murphy, I hand you an exhibit which has been marked as Brinegar's Exhibit Number 3, could you identify that for the record?

A This is a Xerox copy of portions of the community series report that was done for the community analysis program which was completed in June of 1972.

Q This community series report was made up of seven or six parts which included influences acting on

neighborhoods, comparative neighborhood quality, potential of neighborhoods, depth of blight analysis, revitalizing the middle city and citizen participation. This report refers to the study done for the Lakewood statistical community, is that correct?

A That's correct.

Q Now, I notice in various places throughout that exhibit, Mrs. Murphy, the reference to the terms "urban blight", we might turn to page IV-3 and look down to the second to the last paragraph in which there is a reference to ways in which the neighborhood is affected by potential blighting influences. Could you explain what urban blight is?

A Urban blight could be many things. It could be housing that is deteriorated, it can be a preponderance of absentee landlords who do not keep up their housing, it could be housing that is located next to [348] undesirable businesses. Probably in the East Dallas community the best example would be the preponderance of bars that are located, say, along Columbia or Columbia and Beacon adjacent to a residential community. It could be high crime statistics, it could be junk cars in a yard. In other portions of the city they have tremendous problems of odor rendering from plants. It can be so many things. It can actually be anything that makes a place undesirable to live.

Q All right. Rather than go through this exhibit page-by-page, could we generally summarize the impact of this exhibit regarding urban blight?

A This exhibit pulled out neighborhoods we — I might add in our work further divided the communities

into neighborhoods to have a smaller unit to work with.

Q Excuse me, which neighborhood is this?

A It is the area west of Abrams Road.

Q Generally this area here immediately to the east of Central Expressway and west of McMillan, is it not?

A That's correct.

Q Tell us generally what your report says.

A Generally the report says that this is a fragile area that at that time was still in relatively stable shape but it was the type of community that could [349] be if the system within the community was changed that you could expect some blighting influences to occur. There were already some there and more could result.

Q What does system mean, that is a planner's term, is it not, Mrs. Murphy?

A A community is made — when I use the term system, I am speaking of a community being made up of many differences, the housing stock, the transportation system, not only the streets, the freeways and the transit system but the churches, the schools, the shopping available, the parking space available, your whole spectrum of life. City planners love to use the term "work with and plan, and employment available".

Q All right. Could we summarize this report, Mrs. Murphy, as being your opinions and conclusions on the study of the Lakewood statistical community in June, 1972 of the blighting and just the general study of the area including any blighting problems that may exist in that community?

A That is correct.

Q And if the Court wanted to learn your opinions it would be just a matter of reading this report, is that correct?

A That is correct.

* * * *

[351] RAM SINGH,
called as a witness in behalf of the Brinegar Intervenors
being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DONOHOE:

* * * *

[357] Q Any opinions stated here or any other place in this report were your opinions as a planner, were they not?

A Right, sir.

Q They are still your opinions today, are they not?

A Yes, sir.

Q All right. In referring again to page one to the fourth paragraph down the page.

A Yes, sir.

Q It begins, "Conditions in East Dallas are certainly not at the point where wholesale clearance and redevelopment are necessary. Yet the basic mechanisms which affect development and redevelopment of an area are not at present operating to stimulate new demand for East Dallas as a residential

community. Unless this situation is altered, in all likelihood East Dallas faces continued decline."

Was that your opinion based on the data and information that you developed in this report?

A Yes, sir, it was the opinion of the whole staff as it was mine too.

* * * *

[359] Q All right. Now, I notice under the definition or the next paragraph headed "Goals", that one of the goals listed is to increase the attractiveness of the central city to middle-income families. What does this mean, Mr. Singh?

A This has been the main action in the whole United States of America. The middle-class families and upper-class families have moved to the suburbs or to the outskirts of the city. We thought the best way to bring life back to the inner-city community was when the American families might reside there again.

Q Now, referring to page six of the report, if the Court wanted to determine the information regarding the population in East Dallas as compared with the City of Dallas, he could do so by referring to page six which sets forth in summary fashion that in a ten-year period, 1960 to 1970, the population of East Dallas decreased 9.09 percent while the population of the City increased 24.23 percent, could he not?

A Yes, sir, right.

Q He also could go on and note that one-thirteenth of the total city population resided in East Dallas in

1970 whereas in 1971 one-twentieth of the total resided there?

[360] A Uh-huh.

* * *

Q Tables 3 and 4 on page nine first show the racial composition. Table 3 shows the racial composition [361] of East Dallas by census tract and the total city in 1960, is that correct?

A Right, sir.

Q Table 4 shows the racial composition of East Dallas by census tract and the total city in 1970?

A Right.

Q It's a similar table?

A Right, sir.

Q So that in looking at Table Number 3 the Court could note that the total white population of East Dallas for instance, in 1960 was 40,776?

A Right, sir.

Q And in turning to Table Number 4 the Court could note that the total white population had been reduced to 32,503 for a reduction of something over eight percent, is that correct?

A Yes.

Q And he can note in 1960 the black population was 8,434 and looking at Table Number 4 he could note it's reduced to 6,789?

A Right, sir.

Q He could note in Table Number 3 that the Mexican-American population in 1960 in East Dallas

was 2,119 and that had increased by 1970 by looking at Table Number 4 to 7,365?

[362] A Right, sir.

Q Turning back to page seven again, you could note in summary fashion that in the ten-year period between 1960 and 1970 the white population of the city increased 7.87 percent, the black population increased 62.67 percent and the Mexican-American population increased 166.10 percent in the city?

A Right.

Q But you would note in the East Dallas area and you could go on to note that while the Mexican-American population doubled, from 3.8 percent to 8 percent that in East Dallas the Mexican-American population quadrupled from 4.1 percent to 15.8 percent?

A Right.

Q There is other information about the increase or the changes in the white and black population during that period?

A Right, sir.

Q And this information in Report Number 1 was primarily based on the census information for the period through 1970?

A Right, sir.

Q All right. If the Court wanted to note your opinions at the time of this report as distinguished from the later report regarding change in school [363] population in East Dallas he could do so by turning to Table Number 13 on page seventeen, could he not?

A Right, sir.

Q This is a summary, and if the Court wanted to

know anything about the incomes below poverty levels in the East Dallas area as compared with the city as a whole he could do so by looking at page twenty-six and the tables on page twenty-seven, twenty-eight and twenty-nine, could he not, sir?

A Right, sir.

Q Would it be a fair summary of what these tables show to look at page twenty-six, the second paragraph and note that of all families in the City of Dallas in 1970 10 percent lived on incomes below the poverty level but in East Dallas 16 percent of all families lived below the poverty level?

A Right, sir.

Q If the Court wanted to get some notion of the patterns of the investment in real estate and improvement of land and development of land he could do so by looking at Table Number 23 on page thirty, could he not?

A Right, sir.

Q This again was as of February, 1974?

A Right.

* * * *

[365] Q And as a result of these surveys were you not able to develop additional information regarding the demographic characteristics of the East Dallas [366] statistical community for all races?

A Right, sir.

Q On an ethnic basis?

A Right.

Q The Court could get a summary of your conclusions, could he not, by looking at pages four through ten of the report?

A Right, sir.

Q And looking over on page five under the words "Racial Composition", the first sentence would be your conclusion based on your studies, Mr. Singh?

A Well, the conclusion is drawn on these statistics, sir.

Q All right, sir. Now, let me read to you these two sentences that I am referring to and let me ask you to explain them.

A All right.

Q It states here, "The slight change in total population does not reflect the rapid changes that have taken place in racial composition in the last fifteen years. The major trends are an out-migration of Anglos and an in-migration of Spanish surname and blacks." You go on to say, "These trends can be seen from 1960 to 1970 in the U.S. Census and from 1970 to 1974 in the number of births and elementary school enrollment." [367] And then you refer to Table 1.

A Right, sir.

* * * *

[374] WILLIAM DARNELL,
called as a witness in behalf of the Brinegar Intervenors, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DONOHUE:

* * * *

[377] Q I believe, Mr. Darnell, you were responsible for designating those cross hatched statistical areas on [378] Brinegar's Exhibit Number 1 as the inner-city, is that correct?

A Yes, sir. We included those as a suggested designation in the inner-city committee report that I referred to. Actually the City Council is the body which accepts that designation.

Q Could you explain for us what configuration and what information or what characteristics you based the determination that those areas are "the inner-city of Dallas" and you might define inner-city for us while you are at it.

A Partly it's a matter of convenience in that in order to make any kind of assessment of what you are doing or how well you are doing, you have to have an information base from which to do it, thus you almost always are forced to utilize census tracts. As has been indicated by Mrs. Murphy those standard statistical areas are an aggregation of census tracts. When you then look at the information that you have available for those standard statistical areas, SSA's as they call them in the government agencies, you look for certain symptoms, if you will, that appear very frequently in neighborhoods that have problems. You look for symp-

toms such as high vacancy rates, you look for a comparatively low degree of home ownership. You may see a comparatively [379] high degree of physical deterioration from the housing. You normally see a comparatively low income level by comparison to the city at large. You may see high infant mortality rates, high morbidity rates.

Q Morbidity?

A High disease rates of various kinds. You do not necessarily see each one of these in every circumstance but when a preponderance of these appear, it's a reasonable definition then to conclude that an area such as that is what we have called the inner-city. That is simply then an area in which those kinds of problem predominate.

Q All right. And you included the East Dallas statistical community in that inner-city designation, did you not?

A Yes, we did.

Q Why was that? First of all, when did this occur? When was this decision made by your department and yourself that it would be part of the inner-city community?

A I would like to point out again that the final decision did not occur until the City Council accepted the report. Those areas had been in fact suggested earlier in the report, I believe in a report that was finished in 1972, which Mrs. Murphy has testified [380] about called the community analysis-program. Our own conclusion was that that would be made at the time the inner-city report was prepared and that was approximately April of 1974.

Q All right. Going back to East Dallas, was there any special efforts made in East Dallas to develop data and information as distinguished from other parts of the city?

A Yes, as Mrs. Murphy has indicated, the city was already engaged at that time in a planning program of identifying particular neighborhoods, attempting to, particularly with respect to land use to develop some type of remedial action for neighborhoods, to establish with the residents of the neighborhoods continuing dialogue about the problems they conceived and the solutions they might have to suggest.

Q This was about 1972 or 1973?

A Yes, that process actually began even earlier and continued. The planning department program described three phases. Phase one essentially was exploratory and data gathering. Phase two which the citizen groups were contacted and some effort was made to examine the land use patterns, zoning and matters such as that. Finally, phase three which actually attempted then to take the results of phase one and phase two and in some [381] degree implement them. The job of implementation by its nature became closer to the mission of the Department of Housing and Urban Rehabilitation for which I work and to the Planning Department in its normal functions. We therefore agreed and set up between the two departments what we referred to as the East Dallas Demonstration Program.

Q When was this?

A This was again in the spring, I suppose, or summer of 1973 and actually became operational in January of 1974.

Q Go ahead.

A Well, the purpose of the demonstration was to take sort of these basic conclusions that had been arrived at by the citizen planning group and the urban planning program.

Q Could you summarize those conclusions with regard to East Dallas for us?

A I believe that the principal conclusion was that East Dallas was suffering from a number of problems, that's the obvious conclusion and the primary one I believe that that group identified. East Dallas as a community was zoned primarily for multiple family use, meaning apartments, when in fact the predominant land use, actual use on the land was single family [382] structures.

Q Okay. At that point had your department become concerned at all with the demographic makeup or the changes in the demographic makeup in the East Dallas statistical community?

A Yes, in the process of selecting an area in which to attempt a demonstration we tried to find an area that met a number of criteria. We set those criteria obviously in an attempt to come as close as possible to the array of problems that we felt would exist in other inner-city neighborhoods because if any of the techniques that were attempted in East Dallas in fact provide successful, obviously it would be helpful to transfer those techniques to other inner-city neighborhoods. We therefore looked for an area which was in the first place not totally in decay, meaning that there were areas that were moderately stable and even areas that

showed some degree of improvement in their basic conditions. On the other hand obviously we primarily were trying to deal with decline in inner-city neighborhoods.

Q Which would include such statistics as morbidity and health problems, unemployment, lower median incomes, the numbers of families above the poverty level as compared with the ones below and so forth?

[383] A Yes.

Q Do the reports of Mr. Singh referred to earlier set up some of the statistical information and bear that out regarding East Dallas?

A Yes, they do, although that information was not available or at least not compiled in this form at the time the selection was made.

Q I see. I think I interrupted you at the point where you were selecting the East Dallas community for the demonstration project, would you tell us what happened after that?

A Yes, sir. As I say, we attempted to find a neighborhood that met a number of criteria. I described one which was a neighborhood which in our opinion had progressed so far into decay that bringing it back from that state would be a very difficult or extremely expensive kind of undertaking. The second criteria that we set was that the area should already have in existence some reasonable high degree of community involvement and interest on the part of the residents of that particular area. A third one was that the area be ethnically or racially mixed. A fourth was that it lie within the outer boundary, so to speak, which is Loop

12. A fifth was simply whether or not the area had in existence what planners called some of the interest [384] structure, basically an adequate system of streets, roads, parks and sewers and whatnot.

On the basis of comparing among the various standard statistical areas, we chose jointly with the Planning Department the East Dallas area to try some of these efforts. We then proceeded to draw a budget for that project which was ultimately approved by the City Council.

It's worth mentioning also that the city previously provided for a very large amount of federal funds for the East Dallas area in a program similar to the one that is sometimes referred to as crossroads which was obviously a program carried out in the vicinity of Martin Luther King, Sr. Essentially it was also true that the East Dallas Demonstration focus or the focus in that particular program was in housing, on repairing sub-standard structures, on attempting to generally improve the environment. However, in this instance, the city, because of that previous request for federal funds had already allocated something on the order of two million dollars in bond funds to this particular area and therefore the demonstration program had a number of possible resources to work with and the resources obviously of the citizens themselves and their interest and the bond funds that had previously been voted which [385] could be used for various types of public improvements and we had the additional budget approved by the City Council to provide staff to assist in the project.

Q Okay. Now, I believe you referred to as being a pilot program, what specifically did the city through

your department, and I take it your staff do as part of this East Dallas Demonstration Project?

A First there were a number of additional code enforcement inspectors assigned to the East Dallas area, since from the outset it had been clear that bringing housing up to standard conditions was a primary concern. Secondly, the city made arrangements to occupy an actual office in the area in which the code enforcement staff as well as some of the project staff could be located. Third, we began the arduous task of assembling what we call base line data, meaning an attempt to measure as accurately as we could where we were at the start of the demonstration program so that we could quite obviously tell if in fact any progress occurred. That led to the preparation of the reports that we referred to as Report Number 1, and that essentially sets out a base line. We also staffed and held a very large number of meetings with residents of the areas through an officially designated organization put through by the Planning Commission called the East Dallas Design Committee.

[386] Q Was this an elected body?

A Yes, it was. In the process of those meetings with those citizen groups we explored virtually all of the topics that cover the things that make a neighborhood go or not go, what we refer to as the subsystems and that means really how people work, where people live, what they live in, how they earn their pay and where they get their schooling and where they buy their groceries, how they get to work, the whole array of what makes up the neighborhood and people in it.

Q This would account for such statistical information as the tables in this report referring to automobile

ownership and similar kinds of information?

A Yes, sir, we were attempting to paint as complete and accurate a picture as possible of the area, more or less, as it stood at the time we entered into this demonstration program.

Q All right. How does the analysis of the demographics and particularly the ethnicity of the area enter into the planners or how did it enter into your approach in East Dallas because there is a great deal of information in these reports about ethnicity?

A Yes, sir, ethnicity really is of primary concern when you are dealing with neighborhood revitalization only in the sense that it reflects, generally [387] speaking it reflects economic status or socio-economic status. You are not, except for just sort of informational purposes, you are not particularly concerned with the ethnic makeup of the population in the neighborhood except insofar that it is reflective of the socio-economic makeup in the neighborhood.

Q What does socio-economic mean?

A There are literally dozens of definitions in the literature of socio-economic status and a simply indicator of that which is quite accurate is income level. And it is the case that in an Anglo family, for example, that it has a prior median income than a Spanish surname family and in turn a higher median income generally than a black family.

Q All right. Was any information developed specifically about the median incomes of blacks, whites and Mexican-Americans in East Dallas?

A Yes, there is, I believe in Table 6.

Q And this is Report Number 2 which is Brinegar Exhibit Number 6?

A I'm sorry, I have an improper Table 6.

MR. DONOHOE:

Your Honor, we don't have other copies of this and we will have them later.

Q I will ask the witness to identify this document.

[388] A This is a copy of a table that was provided to me by Mr. Singh at some stage during our preparation of all this data going back some long time.

Q And what does that table show, Mr. Darnell?

A Essentially it displays the income ranges for the city, for Lakewood and East Dallas and then for Lakewood and then for East Dallas by \$999.00 increments.

Q Does it show the comparative data by ethnicity for the city, Lakewood and East Dallas, and Lakewood, and East Dallas all separately in categories?

A Yes, sir.

MR. WHITHAM:

I don't have any objection, Your Honor.

MR. CLOUTMAN:

No objection, Your Honor.

MR. CUNNINGHAM:

No objection, Your Honor.

MR. DONOHOE:

Your Honor, we offer Brinegar Exhibit Number 9.

THE COURT:

It's admitted.

Q From that table what did you conclude in summary fashion as to the comparative economic status of blacks, Mexican-Americans and Anglos in the East Dallas statistical community?

A I think you will find essentially the same patterns so far as the economic patterns as you do in the city at large. In 1970 the Anglo's average family [389] income in Dallas was \$15,615.00 and the income for a Spanish surname family would be \$9,232.00 and for a black family \$7,080.00. If you would pick, for example, the income level of \$5,000.00 from the table here, which is an approximation, shall we say, of above poverty level, of a family of four, in East Dallas the Anglo population, 8.22 percent of that population had that income level. 14.02 percent of the black population had that income level. 9.32 percent of the Spanish surname population had that income level. So either way you care to look at it it's a percentage of people having a low income and percentage of people having a high income. It's the normal pattern that the Anglo family on the average has a higher income than the Spanish surnamed or black.

Q This socio-economic status is the primary reason for evaluating the ethnicity of the area from the standpoint of planning?

A Yes, from the standpoint of neighborhood revitalization, yes, sir.

Q Could you explain for us what is the planner's objective as far as developing different socio-economic status in a neighborhood? Is it your goal to raise everyone's level or what is the purpose?

A I think you can generally observe in dealing with any neighborhood that the prime determinant of [390] quality of life in that neighborhood or whether proper-

ties are maintained and its general atmosphere is the socio-economic level of the people who live there. In the revitalization of a neighborhood you don't want to create a situation in which either you have all high income people or low income people. One is just as unattractive from a planner's perspective in the revitalization of neighborhoods as the other. What you look for if you can possibly bring it about is an economic mix in the neighborhood. You look for that for a number of reasons but the principal one is that the lower income people in particular have what we call a shortage, not only of income, but a shortage frequently of information resources and knowledge resources and even perhaps help or other kinds of resources. There is a belief among people who are engaged in neighborhood revitalization that having an economic mix in the neighborhood, first of all, benefits the lower income person by making available to him directly or indirectly resources of the higher income people in the neighborhood. Now, that does not have to mean actual money exchanged, knowledge exchanged, it can mean simple role playing, a great number of things and therefore that is the aim and if you look at that you normally have to deal with that in neighborhood revitalization. If a neighborhood [391] becomes populated entirely by a lower socio-economic group of people, you very typically have a pattern emerge which is high density of, if you will, the symptoms we described that East Dallas has which, of course, perhaps take their most extreme form in the kinds of housing projects that we have both here and in the East in which there are very large numbers of very low socio-economic groups of people forced in in effect because that's the only option there is available.

Q Is that what we sometimes refer to as slums and blighted areas?

A Yeah, that is frequently the outcome and in fact almost unavoidably the outcome of that eventually.

Q When we are talking or when Mr. Singh and I were talking earlier and he set forth his tables and conclusions with regard to out-migration of the Anglos from the East Dallas statistical community, do I interpret your testimony as saying that would also typically mean the out-migration of higher socio-economic status people?

A Yes, it would typically mean that.

Q And is that the basic reason for the concern about out-migration of whites?

A Yes, from the perspective of revitalization of neighborhoods, yes.

[392] Q What have you found in East Dallas as far as efforts on the part of the various socio-economic levels which I take it are of all races to work with one another in the revitalization program? Do you have any evidence in that regard?

A The only evidence you have realistically is you have the participation of the people in the community meetings in the formal organization of the setup as a citizens group to try to address this problem. There were, I am aware of people who participated in that group who were quite poor, who were renters and who had a much different perspective to bring to the discussion than another person who was, say, an owner of a number of apartments, units in the area. Both participated. With respect to ethnic representation there were typically representatives of the Spanish surname

population and there were normally one or two representatives of the black population.

Q All right. I take it you found there was much community support for your actions in the East Dallas area, is that right?

A From time to time. There was support for the general action. We would obviously, as anybody does, make a suggestion that would be resisted by everyone. That was part of the purpose to advance these kinds of [393] suggestions that looked sensible from a city planner's point of view and see what happens when the people that actually live there are confronted with this brilliant notion that you dreamed up.

Q Was the Swiss Avenue Historical District one of the ideas generated by the city staff that was adopted in the area by the community?

A I presume so. That actually all took place prior to my being involved in it. I would mention that the existence of the district was one of the reasons, however, that East Dallas was selected as a demonstration area.

Q So that the existence of this district was one of the causes of its selection?

A Yes.

Q And there was already some evidence of community involvement in the area?

A Precisely.

Q All right. Mr. Darnell, could you describe what the different community systems as I believe you referred to them that are looked to by planners in determining the nature of a community?

A I think there are probably as many opinions about this as there are people engaged in the business

but I think it would be general agreement that you are [394] looking at what is sometimes called the economic system which really means obviously where people are on income and you are looking at the housing system which is self-explanatory. You are looking at what might be called the services of the kind of subsystems, where you buy your food and that sort of thing. You may wish to include health care subsystems. Obviously you look at the educational subsystem. Those generally speaking would represent the scope of the concern in a neighborhood with a possible addition of the particular neighborhood of the transportation subsystem.

Q Well, does the status of these subsystems of particular importance in your efforts to revitalize and stabilize the neighborhoods?

A Yes, of course. These are not independent subsystems. They all link together and they all relate in certain ways to how the net income of those systems fit together and how well they fit is what determines what your neighborhood is.

Q Included in your description of systems as the planners use the terms in the school system, the schools in the area. Do you have any opinions as to the possibilities or the importance of this Court's order with respect to the transportation of any students outside of the East Dallas statistical community and what [395] that order might effect or what effect it might have on the efforts to revitalize the East Dallas statistical community and the probabilities that there might be a better way?

A Well, I think that Mrs. Murphy used the word fragile to describe the East Dallas community and I

would agree with the use of that term. It is a neighborhood in my judgment which at any time could go, so to speak, either way. I believe there is some small evidence of progress having been made in arresting decay in the neighborhood. If you make a major kind of change, for that matter, if you make a small kind of change in one of these subsystems that I refer to, it inevitably ends up showing up in a lot of other ways. There is absolutely no way that I am aware of nor am I aware of any literature on the subject but there is no way in reality to predict how that change in one subsystem may manifest itself through the neighborhood. But the probability is if you make a change in a subsystem, it will have an impact throughout. In the case of East Dallas in particular what you would normally expect to see, if you make a major change in one subsystem, you normally expect to see the basic trends that are there continue or accelerate.

Q Which includes out-migration of Anglos?
[396] A Yes, I guess it does if that's the case. You also expect to see a further, for example, if housing is deteriorating, you expect to see that continue. If unemployment is high, you expect to see it go higher. It's simply not because obviously business has moved out but simply because of the relative employability of skills of the people who move in.

MR. DONOHUE:

Your Honor, we pass the witness.

MR. WHITHAM:

We have no questions, Your Honor.

MR. CLOUTMAN:

I have one, Your Honor.

CROSS EXAMINATION

BY MR. CLOUTMAN:

Q Mr. Darnell, my name is Ed Cloutman and I represent the plaintiffs in this action. You described for the Court a number of community systems or subsystems that form, as you described it, a statistical neighborhood and you indicate that if you change any of these subsystems or alter them in some fashion there will be some impact?

A Yes, sir.

Q You believe the probability might be to continue the present trend if one system is altered from its present revitalization standpoint?

A Yes, sir, I would perhaps put it this way, if I might, that there were a number of trends evident in [397] East Dallas when the demonstration began and there is some small evidence that those trends have been arrested.

* * * *

[398] ROBERT LEE BURNS,
called as a witness in behalf of the Brinegar Intervenors, being duly sworn testified as follows:

DIRECT EXAMINATION

BY MR. DONOHOE:

* * *

[400] Q When you say this what are you talking about?

A The Swiss Avenue Historical District as well as through the bank in setting aside certain sums of money to be used for home loans, home improvement loans in this area to help the district be revitalized.

Q Tell us a little bit about that program.

A Yes, sir. When the Swiss Avenue group first began this effort to get this declared a historical district, the Swiss Avenue Historical District, the Lakewood Bank set aside one million dollars at the time to be used for people to purchase these homes and revitalize them because there were a lot of them which had deteriorated in the Swiss Avenue area.

Q Why was the Lakewood Bank interested in doing something like this?

A Well, of course, our livelihood depends on what happens in our neighborhood. This neighborhood is primarily the East Dallas and Lakewood area which we have been discussing.

Q All right. Did you take other actions in connection with this area?

A Yes, sir. We have run ads. We sent out direct mail pieces soliciting people to come in for home improvement loans. We used radio advertising.

* * *

TRANSCRIPT OF PROCEEDINGS

VOLUME IX

(Number and Title Omitted)

Filed: November 19, 1976

* * *

[2] EVELYN DUNSAVAGE,
called as a witness in behalf of the Brinegar Intervenors, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DONOHOE:

* * *

[15] Q What are you doing with regard to housing in that entire district?

A Well, we have done several things in the past and we are continuing these programs and expanding things. First of all I think I should specify that the characteristic that runs throughout area is the tremendous variety in housing.

Q In prices?

A In prices.

Q Could you give us a range?

A Everything from seven thousand, six thousand dollars to four hundred thousand dollars. I mean the area was purposefully developed that way. I would like to make a brief comment about that to talk about the kind of campaign we have undertaken. Prior to 1930.

the developments were developed comparable to a small town, I mean it wasn't bad. It wasn't thought as a detriment to have the president of a company living in close proximity to a school teacher who lived in close proximity to a laborer. It was a mix of people [16] economically.

Now, after that period of time because of a number of things, factors, the FHA, the war, the federal programs, that sort of dictate criteria for financing to financial institutions, developers had developed one price range type housing with which we are all very familiar. You can drive for miles in the City of Dallas and especially in the suburbs around Dallas and see the same price range of housing and it forces an exclusionary economic kind of living pattern. So in East Dallas, in Old East Dallas and in Lakewood combined we do not have that kind of characteristic. We have heterogeneity in terms of the housing stock itself and that allows for different kinds of people at different economic levels to live in this community and I would say that is the one homogeneous pattern that exists in the community.

Q As a matter of fact that has made for mixing of the ethnic peoples or the people of different ethnic backgrounds as well as different economic backgrounds?

A Absolutely. That's one of the reasons we feel critically that the community be protected because of the characteristics of the housing stock that allows different people, and unfortunately in Dallas, as we all know the socio-economic status of it is very frequently characterized by the racial divisions. The housing stock

[17] in this community basically allows the kind of mixing of all different kinds of people economically and racially, that you can't have commonly in other communities because of the economic divisions.

* * * *

[19] Q Could you tell us just some names or examples of numbers, however you can do it, of people, of the kinds of people that have moved in and who have expressed to you the fact or the view that one of the reasons was the racial and ethnic balance of the area in the course of your duties with the Historic Preservation League?

A Well, yes, the Earharts who are Intervenors moved into the area because, their primary reason was for the integrated school situation. The people who live right across the street from me moved in because of the mix in economic levels in the community. They don't have school children at this time but that was their rationale for it and they wanted an older house. There have just been a tremendous number of people to whom I have talked. Well, I think perhaps it should be said in the reverse fashion. Anyone I speak with the very first thing I say is you recognize this is a mixed community, you recognize this is a different kind of community than most of your say suburban communities and that is something that you are going to have to deal with. If you're not interested in this kind of lifestyle, I suggest you look somewhere else. Secondly, if you want to buy an older house you need to have a good marriage because I don't think you can buy an

older house and go through all the trials and tribulations without it.

Q Tell us a little bit about the ethnic makeup of those people that participated in the East Dallas Design Committee and the neighborhood committees. First you might just tell us what the structure is, the neighborhood committees and the East Dallas Design Committee.

A The East Dallas Design Committee is a representative group elected from the community. It's composed of twenty-seven individuals. They are elected from five neighborhoods in Old East Dallas. Each one of the five neighborhoods also have elected representatives, nineteen in each neighborhood for the four neighborhoods and then only one from the one neighborhood because of the population density of that neighborhood. So essentially you are talking about approximately seventy to eighty elected officials, elected citizens who are involved in the planning process for their community in conjunction with the Dallas City Plan Department and the Urban Rehabilitation Department.

Q Do members of these groups include members of Mexican-American, black as well as Anglo?

A Yes it's all racial composition.

Q In fact, some indication of the ethnic makeup of those persons interested in this community could be taken from the composition of the Intervenors, the ethnic [21] composition of the Intervenors in this case, is that not so?

A Yes, in the sense that the Intervenors are of Mexican-American descent and black and Anglo. We have mixed representatives in the Intervenor group.

Q Now, in going back to Exhibit Number 11, I noticed on page fifteen in the right-hand column at the bottom of the page a reference or the statement that an obvious offshoot was the growth of interest in areas adjacent to the Historic District. Lakewood, an adjoining solid middle-class community, suddenly became a prominent area once again. Businessmen in an adjoining shopping district completed redesign plans to attract more pedestrian shoppers to the center. Would you tell us a little bit about the effect of your programs in East Dallas on the adjacent areas of Lakewood?

A Yes. Real estate in the Lakewood community also had a resurgence, I know that from my experience in working with the realtors in the area and also with the financial leaders in the area as well as personal contact with people who are moving in and out.

MR. DONOHUE:

Your Honor, at this time we would like to offer Brinegar's Exhibit Number 11 into evidence.

THE COURT:

It's admitted.

* * * *

[361] RENE MARTINEZ,
called as a witness in behalf of the Court, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY THE COURT:

Q For the record, will you give us your name?

A Rene Martinez.

Q Where do you live?

A 6251 Turner Way.

Q What is your present employment?

A I am the manager of the Department of Urban Affairs for the Dallas Chamber of Commerce.

Q How long have you been so employed?

A Approximately eight months.

Q Have you had any experience in the past with the Dallas Independent School District in the court order entered in 1971?

A Yes, sir, I served in the capacity of being a [362] member of the original Tri-Ethnic Committee since July of 1971 and later became the Chairman of that particular advisory body to this Court.

* * *

[363] Q All right. Well, now, to move on, were you a member of the Dallas Alliance Task Force that filed a plan with the Court?

A Yes, sir, I am. I am presently a member.

Q And you have been on that Task Force how long?

A From its inception in, let's say, November, late November, early December.

Q Were you in on the formulation of the original plan?

A Yes, I was.

Q And you are aware, of course, that, I believe it was, Mr. Hernandez and Mr. Rutledge who were also members of that Task Force that filed objections or disagreements or objections to the plan?

A That's correct.

Q Now, then, I believe Dr. Geisel has testified in Court in reference to it and since that time, or rather on yesterday a modification was filed. How did the Task Force get to that modification?

A The committee — the actual Task Force met Tuesday night. And before that the chairman of the Task Force had created a drafting committee that came up with additional revisions, modifications, some changes. In some cases there was elaboration on some points that we had originally submitted to the Court. That drafting [364] committee then presented its final revised form to the Task Force this Tuesday night. And we, of course, agreed to those revisions and submitted them to the Court the following day.

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

* * *

(Number and Title Omitted)

HEARING ON PLAINTIFFS' MOTION
FOR FURTHER RELIEF

September 16, 1975

* * *

[82] THE COURT:

Now, I am fully aware in the short time involved that the Plaintiffs have filed voluminous interrogatories which they have a right to do under the Federal Rules of Civil Procedure, but, I think that the least that the School Districts, these Defendant suburban School Districts can do at this time in the light of their proximity to the City of Dallas, which is definitely interested in this case and which was an original intervenor [83] and remains as an intervenor, and the suburban districts have enjoyed the benefits of the governmental services that are provided by the City of Dallas. Their residents have commuted into Dallas to work and conduct their businesses. And have done so without assuming any of the obligations or responsibilities for maintenance of these services. And I think that the districts — that the least these districts can do now is to answer these interrogatories and get the facts before the Court, and if it takes a little overtime work, a little more staff, I think they can do it. I think that fifteen days should be adequate for the suburban districts to answer these interrogatories or questions.

Now, as I said, I have lived with this case for over four years now and, as you know, the school district, the

Dallas Independent School District, has filed a desegregation plan which it did on September the 10th. The metropolitan NAACP has also filed a plan and I have reviewed these plans. I have not asked the attorneys for any comment or any argument about it because I am satisfied in my own mind about these matters at this point. The attorneys for the Dallas [84] Independent School District had asserted that it was the right and the duty of the school district to at first offer a plan to desegregate its schools before being ordered to follow a plan that might be designed by the Court and the Court agreed with that procedure even though the result might have reasonably been foreseen. Federal Judges are very conscious of the fact that school boards are elected officials and it is politically expedient to put the burden of these orders on the Courts so that any voter disapproval might be directed toward the Courts and it's nothing new. Legislators do it, Governors do it, city councils do it, Commissioner's Courts do it, even Presidents and Congressmen do it. On one occasion a Governor of Texas said as he signed the bill passed by the State Legislature, well, it's unconstitutional, but the Federal Court will take care of that. Well, the Court did and sure enough, the Legislature very promptly passed a resolution asking Congress to pass a resolution limiting the terms of Federal Judges.

Now, the School District's plan is patently not Constitutionally adequate. To mention just one item, forty-six schools remain as [85] one-race schools. And even if this Court should approve, which it doesn't, I have no

doubt that the Fifth Court would send it — would promptly send it back, and I don't know that I would want to read their sharp language.

Now, it's unnecessary to list other deficiencies but most important to me is the fact that it fails to address itself to providing a quality education for the children.

Now, the plan submitted by the intervenor NAACP, while it suggests some relevant and meritorious provisions, goes too far in the other direction and it therefore is unacceptable.

Now, at the first conference which the Court had with the attorneys for the Plaintiffs and the attorneys for the Defendants and, I believe, this was held within a day or two of the date of July 23rd, the date that the opinion of the Fifth Circuit was handed down, but at that time the Plaintiffs' attorneys requested the Court or requested the appointment of an expert by the Court to assist the Court in preparing an adequate desegregation order. The Dallas Independent School District attorneys argued that this action should not be taken because the plan which the School [86] Board had a right to file first could well make it unnecessary. Well, that just didn't happen. And the Court has decided to call upon Dr. John A. Finger, Professor of Education, at Rhode Island College, Providence, Rhode Island, to act in that capacity. Now, he has served the Courts well in several of these cases. I know that this case is complex enough to require the assistance of experts and it's already indicated that the parties have their own and I think perhaps the Court is entitled to get in on that act with his expert.

Now, let's turn to what lies ahead of us. I want to say first that this is not my job and mine alone. It's not my job alone. We all have a job to do. The Plaintiffs, the intervenors, the Defendant school districts, the parents and everyone else who lives and resides in this district. Now, we all accept and enjoy these privileges and benefits of living under the great Constitution which governs this nation. Freedom, liberty, individual rights, not to mention the highest standard of living in the world, are ours. We must always remember that with these benefits and privileges we have corresponding duties and [87] responsibilities.

Now, at the beginning I wanted to address myself to the busing issue. The Court is not unmindful of nor insensitive to and has never been of the feelings and the emotions of many parents about this matter of so-called busing or forced busing. Now, there is no intention on my part to argue that question at this time or to try to change anyone's mind about it. Chief Justice Burger of the United States Supreme Court in the landmark case of *Swann versus Charlotte-Mecklenburg*, decided in April, 1971, pointed out that eighteen million of the nation's public school children, approximately thirty-nine percent, were transported to their schools by bus in 1969-1970 in all parts of the country. Now, what I just said was the direct quote from the *Swann* case. And I might add that there was no opposition to busing so long as the buses were used as tools of segregation. It was only natural that the Courts concluded that buses could be used as tools of desegregation. Pupils are being bused under Court

order in Boston, in Louisville, Indianapolis, Charlotte and many other cities. Now, there is no reason why we in Dallas think that we should be a chosen favorite [88] entitled to exception from the rule.

Now, there will be busing of students in the Dallas Independent School District simply because it's the law and we must all follow the law. My basic and primary concern, however, is what lies at the end of that bus ride for our children.

Now, I know that our young people can and will adjust, it's up to the adults to be as flexible. Now, I repeat that I'm not changing or trying to change anyone's mind about the merits and demerits of busing, but I would wish that the anti-busing advocates would direct their energies and their vocalizing to a positive and constructive end, that is a quality education for our children.

Now, in 1971 the desegregation plan that was submitted to this Court by the Dallas Independent School District was entitled "Confluence of Cultures." It had a beautiful red, white and blue color showing black, white and brown hands joined together in understanding, brotherhood and respect. It was dedicated to improved education for all students. There was guaranteed grade level performance for all minority students, desegregation teacher education centers, human [89] resource learning centers, compensatory education, just to mention parts of it. Now, this Court was sold and bought the plan but I fear that the School District didn't uphold its end of the bargain. As Dr. Conrad said, Dr. Emmett Conrad, a member of the

Board, said, the School District missed a golden opportunity. Now, had the District carried through, our problems at this time might well be significantly simpler. Now, I'll add this, I'm not inclined to fault the School District entirely. I say that the business leaders of Dallas have defaulted. I know that because in the beginning when this case was starting and was going on and as it had been pending I have had occasion to call upon some of these leaders and they have left the District to meet the problem alone and unaided and this has to be the height of shortsightedness.

Now, the business leaders have as their object to attract other businesses and industries into this great City and they, of all people, should know that there is little hope of success in that regard if public education here is inferior and if the City is torn by racial strife.

Now, with the wisdom and the acumen of [90] the leaders of this City, if they're willing to put forth the effort, there is no reason why either of these dismal results should occur and there is something worthwhile at the end of that bus ride for the kids. When one thinks of the institutions of higher learning, the colleges and the universities, the business establishments in this area, the banks, the insurance companies, IBM, Texas Instruments, Blue Cross-Blue Shield, Collins Radio, Xerox, the airlines, just to mention a few, that could be called upon to assist in the educational effort, one realizes that the possibilities for not just quality education but for a superior education in the Dallas Independent School District are simply unlimited and the children are entitled to it.

Now, these institutions and establishments could be enlisted to supply personnel on a part time basis for tutoring, instruction in different schools in the District and perhaps ultimately scholarships under contract and the supervision of the School District. It's time for the business leaders to stand up and be counted and I'm glad to see that some of them have and there are some that are deeply interested. Dallas [91] Alliance, for example, just to name one group and not with any view of excluding the others that are interested.

Now, as to how we will proceed in this case, fifteen days have been allowed the suburban school districts to answer the interrogatories and the Plaintiffs will need a few days thereafter to prepare for an evidentiary hearing on the questions that are involved. Such a hearing is set for October 6, 1975 at 9:30 A.M. and following that without interruption we will begin final hearing on a desegregation plan for the Dallas Independent School District.

Now, in the meantime, and this is routine in lawsuits, I want the attorneys for the Plaintiffs for the School District, for the intervenors and for their experts and the Court's expert, you will note that I am not including the attorneys for the suburban school districts, but I want these attorneys, the intervenors that have been allowed in this case and their experts and the Court's expert to go into executive session in an attempt to come up with an agreed plan to be submitted to the Court, one that will minimize busing so far as possible but in all events will [92] provide a quality education for the students.

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EDDIE MITCHELL TASBY, ET AL

versus CA NO. 3-4211

DR. NOLAN ESTES, ET AL

CALLED HEARING OF JUDGE TAYLOR

BE IT REMEMBERED that on the 18th day of December, A.D., 1975, the above styled and numbered cause came on for hearing before the Honorable William M. Taylor, Judge of the United States District Court in and for the Northern District of Texas, and the following proceedings were had:

[2] PROCEEDINGS

THE COURT:

Good afternoon, Ladies and Gentlemen. I'm almost afraid I've talked too much today. I hope my voice holds out while I talk to you about why I asked you in here today.

I never undertake a matter of this kind without a little fear and trepidation that what I say might be misconstrued or misunderstood, though I do try to speak in plain English. But, in these cases, as all of you know, it's so easy for people in an emotional state to read into

something that is said, something that is not intended and that's why I say I have a little bit of concern about it, but I wanted to do it anyhow.

I appreciate your being here. I prefer to have the lawyers and their clients, because then you hear it from me. I'm talking about the litigants, the clients, the members of the School Board, the members of the City Council and the attorneys, and you're not dependent upon a relay of information from the — your attorneys. And this may be a little unusual, but of course what I'm saying is on the record and will be a part of the record in this case. And if I say it's unusual for the Judge to be talking to the litigants [3] I will repeat what I have often said and that is that there is no other case like a desegregation case. They don't always follow the usual rules. Now — and after all, the litigants are entitled to know that, and I hope they do know, that the Judge is a human being. After all, he's just like you are, just like the rest of you. And even Federal Judges don't — no Judges, State or Federal, actually, sit in an ivory tower nor live in a vacuum. So I did want to talk to you briefly today about developments in this case and I want to say right now, and I don't want any misunderstanding about it, I have not pre-judged this case. I have not made up my mind about it. I will not do that until I hear all of the evidence. And the Court has not decided on any plan and will not do so until everybody has had — that the litigant here has had a chance to come forward and present their side of it. And I want that clearly understood.

Now, for example, the Court, as you know, appointed an expert in this case. We are going to have other experts who will testify. The Court's expert or the expert that was appointed by the Court was Dr. — or is Dr. Joe Hall who [4] has been in many of these matters. He has prepared and submitted to the Court a plan. I will make that plan — I will file that plan in the papers in the case next week so that it will become public. And I want it understood that just because it's Dr. Hall's plan, that's not the Court's judgment in this case and I repeat — I say that because of what happened in 1971 when the people with TED TAC filed three different plans for the consideration of the Court. You would have thought that the Court decided the case and those poor boys were attacked from all sides unnecessarily and what they had filed did not represent the final plan of the Court.

Now, I expect and hope that there will be other plans that are filed. Just for example, this is one of the developments that you may or may not know about. Through the news media, I learned that a class of students at Skyline High School had prepared a desegregation plan. I finally — not hearing anything from them, I called for that plan and that has now been filed with the Court. Of course, that was really one of the greatest experiences in the world to have those kids come down here to Court and talk about [5] their plan. And don't ever fool yourself, we've got some smart young ones in this city. But, I don't know whether the parties have or the lawyers have had an opportunity to see the plan that they prepared, but it is available and

they have provided the Court with adequate copies to go around.

That again is not the Court's plan and I'm asking and have asked for the submission of other plans. I expect the intervenors, perhaps, to come up with something, though they may not. Time will tell.

Now, going forward and more about why I asked you to be here. Back in 1971 when I had this case you may remember that — well, it was the memorandum opinion that I filed on July 15th, 1971 and I wound it up with these words: "I will suggest that the Dallas Board of Education should make the confluence of cultures an actuality rather than a catch phrase or a dream and that it can be a vast help to the City of Dallas in serving its Chamber of Commerce appellation, 'City of Excellence'".

Prior to any hearing in that case I had called some representatives or individuals from [6] the business community and from the community generally together with the request and in the hope that there could be a common solution so that there would eventually come forth an order that would be acceptable to a vast majority of the people living in Dallas or in the Dallas Independent School District. That plea fell on deaf ears. I was categorized, I think at that time, as a dreamer. Maybe I am. I still am to some extent though I've lived a lot longer since that time. Then, when we actually got into the hearings, I believe with that order of July the 17th, I had directed the School Board to come up with a plan by the 23rd of July, which it did.

Now, after that plan was filed, I then — and I'm

reading now from the order that I entered on August the 2nd.

"Thereupon the Court called for a private meeting of Plaintiffs and Defendants' attorneys and representatives as well as attorneys for Intervenor and Tri-Ethnic Committee Members to undertake the formation of a joint plan that would be in keeping with the respective contentions and positions of all parties concerned. Such meetings commenced on Friday and continued [7] through Saturday, Sunday and Monday, July 23rd through 26th inclusive to no avail. And hearing in Open Court was resumed at 10:00 A.M. on Tuesday, July 27th, and the Court proceeded to hear the evidence and arguments of Counsel that were presented by all the parties including the Intervenor."

Now, I have always been of the opinion and I still am that here we have an opportunity to do something really for Dallas. And it's just a job that can't be carried by one person alone. And I don't need to call it a job, I say it's an opportunity. It's an opportunity for the City, the City Council as well as the School Board. It's virtually impossible for the School Board to do it alone.

For example now, talking about the role of the Judges in these matters; of course the Courts cannot — now by that, I'm talking about not only Federal Courts, but State Courts, Courts cannot allow basic constitutional rights to be sacrificed to community opposition. In other words, we've still got to follow the law and the facts.

But again, I repeat that we Judges don't [8] live in a vacuum and the Courts frequently — and that's what

I'm doing now — undertake to give all effective members of the community access and — access to the Courts and do not merely create their own remedies without citizen input.

Now, I want to refer to what I said on September the 16th, that is in part. It was at that time that I had all of the attorneys in here, the Intervenor as well as the attorneys for the suburban school districts who had been brought into the case by the Plaintiffs and I made a few remarks at that time. I said this and I have no hesitation in repeating it. I have said in the past that my basic and primary concern is what lies at the end of a bus ride for our children. Now, one thing that prompted my saying that was that Dr. Emmett Conrad on the School Board had made the statement that in '71 the School Board missed a golden opportunity to do something for the education — I mean, he didn't say — missed a golden opportunity in 1971, and of course I took that to be a reference to what could have been done at that time and we did not carry through with it. And I faulted the School Board a little bit on September 16th, but I did [9] say this: "Now I will add this, I'm not inclined to fault the School District entirely. I say that the business leaders of Dallas have defaulted. I know that because in the beginning —". And then I talked about what I had attempted to do in calling together some of those leaders in 1971.

I went on to say this: "Now the business leaders' object and name is to attract other businesses and industries into this great City and they, of all people, should know that there is little hope of success in that

regard if public education here is inferior and if the City is torn by racial strife. Now with the wisdom and acumen of the leaders of this City, if they were willing to put forth the effort, there is no reason why either of these dismal results should occur and there would be something worthwhile at the end of that bus ride for the kids."

Now, the response of the business community and the other people in Dallas has been tremendous. I will not try to go into detail as to all that has happened, but I have had many calls. Just for example, "Well, Mack, what can we do?" And I had wanted the people in this community to [10] try and get together to do something for the City of Dallas. Now, we all love this City and I think there is an opportunity here for this City to be a leader in the field of education. Now, this opportunity is here. I want to take advantage of it. The School Board alone cannot do that. It's going to take the City Council, it's going to take the blacks, the browns, the whites, the business leaders, the school staff. It's going to take everybody.

You know, if we can build, along with Fort Worth, the greatest airport in the world at the cost of some seven hundred odd million dollars, and it is the greatest, now why can't we build the best educational system right here in Dallas, so that people are attracted here. They want their kids to get the best available education, and I think we've got an opportunity to do it. It's going to take the planning that the City Council has to do, the problems it has. Well now, I just mention those things. Everybody has this opportunity and we ought to take advantage of it.

So again, getting back to what I said on [11] September 16th, I called upon the attorneys for the Plaintiffs and the attorneys for the Defendants to get together to see if they could not come up with a joint plan that would be acceptable to the litigants and that they would feel comfortable in submitting to the Court as a proper order.

Now, with the interest of the business community, and I'm not trying to confine this just to the business leaders. They too have a stake in this, all of the citizens, and they've gone to work to try to do something and I think you're entitled to know about it.

Now, talking about what I was talking about at Dallas, we all know that very recently the voters in this City passed a rather substantial bond issue by a rather substantial majority. Now, that spoke volumes to me about the fact that the citizens of this City are not willing to just let it sit still and not progress. They want to move forward. We see throughout the country and throughout the state that bond issues are turned down by the voters, but not in Dallas and I think it's because they want to go forward.

The other development that I wanted to bring [12] forward to you and I wanted you to know about, because the Courts — the Courts don't operate in secrecy. We try to do everything right out here in Open Court with everybody to have a chance at it through their lawyers and through their witnesses to come forward with their views.

Growing out of that challenge that I made to the business leaders, there was, as I said, a terrific

response. The Dallas Alliance took an interest in it and they — the Dallas Alliance, as I understand it, is not to be confused with the business leaders. It's not necessarily composed of, but it has as members some seventy-five business organizations or rather clubs and civic organizations in Dallas. They went to work on this and arising out of that grew and developed a task force. This was under the leadership of Jack Lowe and Dave Fox and a few others who I'll not undertake to name. And this task force wound up with seven blacks, seven Mexican-Americans, seven Anglos and I believe one Indian. Now, they have sent Dr. Paul Kiser all over this country looking at different educational systems. Where they are going to wind up, they don't know, but they're working [13] with those people. That is, the blacks, whites and browns and the one Indian, and trying to come up with something for the benefit of Dallas.

Now, just as I wanted the input from those kids out at Skyline, I also want the input from this task force and I wanted you to know that they had my blessing and had gotten the go ahead signal from me. I couldn't very well challenge people in this community and then have them go ahead and not listen to them. So I want you to know of that development and the fact that I hope that with that combination of people that are working to the end of accomplishing something for Dallas, that they have my blessing and I expect to hear from them. Now, whether I'll hear from them as amicus curiae, that might be an appropriate way to do it though I haven't fully decided yet. But, I wanted you to know of that

development. And as I say, this — the Court wants this input from the people in this City and in this School District. And so that you would know that this Court's not going to — again, repeating — operate in a vacuum, but I want to hear from the citizens, I want everybody to know that they have access to the Courts.

[14] Now, I see Jack Lowe here. Jack, would you mind if I called on you to tell what you're doing or what it's like or how you're working? Would you mind —

MR. LOWE:

No, I do not.

THE COURT:

All right. I want to know.

MR. LOWE:

Should I stand?

THE COURT:

Why don't you come up here and turn around and face the folks out there.

MR. LOWE:

Can I stand this way?

THE COURT:

Yes.

MR. LOWE:

Thank you.

The Dallas Alliance Task Force which the Judge has described, when we got together — and it wasn't all that easy for us to get together — we tried to conceptualize how we could possibly be helpful.

THE COURT:

Jack, would you excuse me for a minute? I left out something I wanted to tell everybody. I asked Mr. Lowe and the other people of the Task Force: "What are you all trying to do? What's your aim? What's your goal?" And yesterday I was provided with this, which apparently this Task Force — what this Task Force has agreed on. One; provide best [15] educational opportunity for each child. Two; eliminate all vestiges of a dual system. Three; assure adequate accountability. Four; enable the entire school system to become a superior system which would attract families. Five; develop a continuing program that will contribute to a quality school system and community.

* * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

(Number and Title Omitted)

TRANSCRIPT OF PROCEEDINGS
OF HEARING OF
DEFENDANTS' MOTION FOR APPROVAL OF SITE
ACQUISITION, SCHOOL CONSTRUCTION AND
FACILITY ABANDONMENT

February 24, 1977

* * * *

[4] DR. NOLAN ESTES,
one of the Defendants, being duly sworn, testified as
follows:

DIRECT EXAMINATION

BY MR. WHITHAM:

* * * *

[5] Q And were you serving in that capacity on
April 7, 1976?

A I was.

Q And have you served in that capacity con-
tinuously since that period of time?

A Yes.

Q You are familiar with that particular order
entered by this Court of April 7, 1976 referred to
generally as the Final Order in the Dallas Independent
School District desegregation proceedings before this
Court?

A I am.

Q And have you been the School Administrator
primarily responsible for implementing that particular
Order?

A I have.

Q Pursuant to that Order did the Dallas Indepen-
dent School District order and thereafter conduct a
school bond election to provide for facilities, equipment
and school buildings?

A We did.

Q And when was that election held?

A On December 11th, 1976.

Q What was the amount of that bond issue sub-
mitted to the voters by the School District?

[6] A Eighty million dollars.

Q Did that bond issue successfully carry?

A It did by a great majority.

Q You don't happen to know the particular majori-
ty, do you?

A About twenty thousand voting for and ap-
proximately thirteen to fourteen thousand voting
against.

Q Are you familiar with the demographic patterns
within the School District insofar as parts of the city
supporting the bond issue and parts of the School Dis-
trict not supporting the bond issue?

A I am. We had, of course, the vast majority of all
precincts supporting the bond issue. We did have some
few sections, however, in older parts of the City that
generally do not favor any bond issue and did not favor
this one.

Q Generally speaking are you familiar with the
parts of the School District occupied by either black or
Mexican-American citizens?

A I am.

Q By and large did the bond issue pass in those
precincts occupied by blacks and Mexican-Americans?

A Yes, it did, through, I might add, through the
work of parents and patrons in those areas. In the East
Oak Cliff area, for instance, we had more than [7] three
thousand votes in the East Oak Cliff area for the bond

issue and three or four hundred against the bond issue, overwhelming support in the East Oak Cliff area.

And again in the South Dallas area, because of the fine work of our parents and patrons in that area, Mrs. Davis and others, it carried by an overwhelming majority in that area.

Q Now, has the School District pursuant to that bond election sold any amount of bonds to date?

A We have. We have sold thirty million dollars to date.

Q Now, with respect to the instant application now before the Court with respect to approval of the construction, site selection and facilities abandonment, are you familiar with that application filed in this Court on February 17th of this year?

A I am.

Q With the exception of the first item, the acquisition of the A. Harris Shopping Center, are each of the school buildings listed in that application currently being used to house students at the grade level as ordered by this Court on April 7th, 1976?

A They are.

* * * *

OVERSIZE FOLDOUT(S) FOUND HERE IN THE
PRINTED EDITION OF THIS VOLUME IS (ARE)
FOUND FOLLOWING THE LAST PAGE OF TEXT
IN THIS MICROFICHE EDITION

SEE FOLDOUT NO 1-3

DEFENDANTS' EXHIBIT NO. 11

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EDDIE MITCHELL TASBY, ET AL

versus No. CA-3-4211-C

NOLAN ESTES, ET AL

DALLAS INDEPENDENT SCHOOL DISTRICT
STUDENT ASSIGNMENT PLAN FOR
ELEMENTARY AND SECONDARY SCHOOLS

PART I.

1.1 Pursuant to the Court's request, the Board of Education of the Dallas Independent School District respectfully submits the following student assignment plan for the Dallas Independent School District. The Board of Education understands that the Court will hold a hearing on student assignment plans for the Dallas Independent School District. At that time, the School District will present testimony in explanation of this student assignment plan.

1.2 The Dallas Independent School District is no longer a predominantly Anglo student school system.

At this time the racial composition of the Dallas Independent School District as of December 1, 1975 is 41.1% Anglo, 44.5% Black, 13.4% Mexican-American and 1.0% Other. The ethnic composition of students in the Dallas Independent School District by grade level is:

Grade Level	Anglo	%	Black	%	Mexican-American	%	Other	%	Total
K	3254	34.8	4429	47.3	1595	17.0	87	.9	9365
1	4260	36.7	5274	45.5	1955	16.9	113	1.0	11602
2	4095	36.9	5080	45.7	1822	16.4	104	1.0	11101
3	3947	36.7	5056	46.9	1648	15.3	118	1.1	10769
4	3756	35.5	5098	48.1	1608	15.2	131	1.2	10593
5	4226	37.5	5251	46.6	1672	14.8	125	1.1	11274
6	4543	39.3	5394	46.6	1504	13.0	128	1.1	11569
7	4853	41.0	5356	45.2	1532	12.9	103	.9	11844
8	5039	42.2	5343	44.8	1438	12.1	115	1.0	11935
9	5231	43.5	5406	45.0	1286	10.7	100	.8	12023
10	5287	45.4	4943	42.5	1259	10.8	155	1.3	11644
11	4828	51.5	3526	37.5	936	10.0	93	1.0	9383
12	4704	58.7	2611	32.6	634	7.9	71	.8	8020
TOTAL	58023	41.1	62767	44.5	18889	13.4	1443	1.0	141122

1.3 For the purposes of the desegregation plan students shown in the category "Other" are included for mathematical statistical purposes in the category labeled "Anglo."

1.4 Students will be assigned to a school as hereafter provided by the applicable Part of this Plan.

DEFENDANTS' EXHIBIT NO. 13

HISTORICAL ENROLLMENT*

Dallas Independent School District

<u>Dates</u>	<u>Anglo</u>	<u>Percent</u>	<u>Negro</u>	<u>Percent</u>	<u>Mexican-American</u>	<u>Percent</u>	<u>Total</u>
October, 1969-70	97,131		52,531		13,606		
Kindergarten	- 28		- 271		- 94		
Total	97,103		52,260		13,512		162,875
October, 1970-71	95,133		55,648		13,945		
Kindergarten	- 121		- 1,036		- 216		
Total	95,012	- 2.2	54,612	+ 4.5	13,729	+ 1.6	163,353
October, 1971-72	86,548		57,394		15,154		
Kindergarten	- 66		- 1,455		- 269		
Total	86,482	- 9.0	55,939	+ 2.3	14,885	+ 8.4	157,306
October, 1972-73	78,560		59,643		15,909		
Kindergarten	- 126		- 2,383		- 514		
Total	78,434	- 9.3	57,260	+ 2.4	15,395	+ 3.4	151,089
October, 1973-74	73,042		62,468		17,141		
Kindergarten	- 3,439		- 3,575		- 1,276		
Total	69,603	- 11.3	58,893	+ 2.9	15,865	+ 3.1	144,361

224

(Continued below)

* HEW Report

<u>Dates</u>	<u>Anglo</u>	<u>Percent</u>	<u>Negro</u>	<u>Percent</u>	<u>Mexican-American</u>	<u>Percent</u>	<u>Total</u>
October, 1974-75	67,324		63,760		18,426		
Kindergarten	- 3,821		- 4,105		- 1,562		
Total	63,503	- 8.8	59,655	+ 1.3	16,864	+ 6.3	140,022
October, 1975	60,796		64,594		18,994		
Kindergarten	- 3,370		- 4,338		- 1,559		
Total	57,426	- 9.6	60,256	+ 1.0	17,435	+ 3.4	135,117
1969-70	97,103		- 52,260		- 13,512		
1975	- 57,426		60,256		17,435		
Total Loss	39,677	- 40.9	7,996	+ 15.3	3,923	+ 29.0	

225

DEFENDANTS' EXHIBIT NO. 17

DALLAS ALLIANCE

Minutes of a Called Board Meeting
 October 23, 1975, Zale Corporation,
 3000 Diamond Square, 3:30 P.M.
 (REVISED November 10, 1975)

I. CALL TO ORDER:

The Chairman (Jack Lowe, Sr.) called the meeting
 to order at 3:45 p.m.

II. PRESENT:

(1) George Allen, (2) Victor Bonilla, (3) George
 Brewer (4) Mario Cadena, (5) Charles Cullum, (6)
 Juanita Elder, (7) L. G. Foster, (8) Bryghte God-
 bold, (9) Walter Humann, (10) Ben Lipshy, (11)
 Jack Lowe (12) Rene' Martinez, (13) Roy Orr, (14)
 Catherine Perrine, (15) Randy Ratliff, (16)
 Hortense Sanger, (17) Chris Semos, (18) Louis
 Weber, Jr.

Twenty-one Trustees were not present:

(1) Helen Boothman, (2) J. K. Bryant, (3) Clyde
 Clark (4) David Cooley, (5) Roy Dulak, (6) Nolan
 Estes, (7) V. Alyce Foster, (8) David Fox, (9)
 Adlene Harrison, (10) Zan Holmes, (11) Bill

Hunter, (12) Don Jarvis, (13) Raymond Nasher,
 (14) William Pitstick, (15) George Schrader, (16)
 Judson Shook, (17) Cleophas Steele, (18) Lee
 Turner, (19) John Whittington, (20) W. W. Wilson,
 (21) Wes Wise

Also Present:

(1) Paul Geisel, (2) Fay Willis (3) Members of the
 Press

III. AGENDA:

PURPOSE OF THE MEETING

Jack Lowe stated the purpose of the meeting was
 to determine and discuss a course of action to take
 in developing a community-based school which
 would be educationally sound, would be a magnet
 system — where every child and parent could be a
 winner. Lowe described two meetings of a group
 of seven Black, seven Chicano, seven Anglo which
 met to establish a process to lead to such a plan. He
 pointed out the need expressed by the group that
 it be designated as a Task Force of the Alliance.

The understandings were to be that any member
 of the Task Force could withdraw at any time. The
 Alliance would provide professional and financial
 assistance; the group would act fairly
 autonomously because of time constraints; the
 board could withdraw support at any point as
 well.

DISCUSSION

The discussion indicated strong support for such action. Questions regarding the potential for success; the amount of time; the relationship of the process to the court suit were raised; the general concensus of the board members who had participated in the formation of the Task Force group was that it was (1) worth a try, (2) time was limited, and (3) the dream was that the plan would be so "right" that the community, the court, the school board and other litigants would accept it.

Lowe read five precepts that he had previously read to the proposed Task Force as guiding principles of any plan. Lowe said that these guidelines had not been worked over and approved by the Task Force but were his first draft of ideas that had been verbalized by various members of the Task Force. These precepts call for a plan that would:

- (1) Provide best possible education for each child.
- (2) Eliminate all vestiges of dual system.
- (3) Provide adequate accountability.
- (4) Contribute to a stable, integrated community.
- (5) Become a "Magnet" school district — so good

that people want to move into it, rather than out of it.

Following discussion, a motion was made to approve the formation of a Task Force of twenty-one. Motion carried.

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:30 p.m.

Respectfully submitted,

Clyde Clark
Secretary-Treasurer

APPROVED BY THE BOARD

Jack Lowe, Chairman

ATTESTED:

Faye Willis

N.A.A.C.P.'S EXHIBIT NO. 2

* * *

GOALS

IT SHALL BE THE AIM OF THIS PLAN:

1. To make use of the positive elements that can be found in naturally intergrated neighborhoods and to enhance opportunities for persons in other neighborhoods in the development of programs which will provide quality education for all.
2. To enhance educational opportunities provided in Inner City Schools by the development of a superior educational program in each of these schools and to provide physical facilities of a quality and quantity commensurate with the needs.
3. To develop a plan of education that recognizes the diversity in populations and which will utilize these diversities to impact upon the intergrated whole for the entire district, which will include the upgrading and improvement of education in every school.
4. To develop a program of community involvement whereby the decision making body in the school system will have regular input, both system-wide and in each local school.

The Goals set out in this Plan are to be governed by the basic Guidelines outlined immediately below, in the plan for desegregation of the Dallas Independent School System and the change over or conversion to an unitary system. The following Guidelines should be adhered to as near as possible.

1. Every effort should be made to devise a fair, reasonable and stable Plan.

(a) Every school should have a racial balance comparable to the racial balance in the District, which will not deviate more than Ten Percent (10%) up or down.

(b) Do not transport students out of a neighborhood which is already intergrated, that is, one having the racial balance referred to in 1 (a), hereinabove. However, students may be bused into such areas, if necessary.

2. The first magnitude of desegregation and the attaining of an Unitary School System should be to achieve a racial balance of black and white students in each school and then follow through with the intergration of other minorities into the system.

3. Innovative programs and intensive involvement should be fostered in schools which are located in low income areas of the District and the Inner City Schools.

4. Fairness should be the central aim of any plan in terms of transporting students in and out of neighborhoods, the number of grades away from neighborhood schools or any other element of differential arrangement of facilities or programs. Fairness includes the number of students involved from each race.

5. Any set plan should have written into it automatic mechanisms for change based upon conditions which may arise in the community.

6. Every student, not living in an intergrated neighborhood should be bused at one time during his/her school career.

7. The primary aim should not be to create more compact geographical districts, but rather to involve the least number of students in a transportation plan as possible.

8. Explicit policies and procedures for the Management of future reassignment of pupils, either in the interest of the school system or on request of pupils, need to be formulated and adopted. Such policies are to fulfill the purpose of maintaining an intergrated Unitary School System with a stabilized assignment program.

9. Explicit policies and procedures for the Management of Admissions to any Optional Schools need to be formulated and adopted. They must provide for

District-Wide access to those schools as appropriately intergrated schools, and prevent any significant jeopardy to the Racial composition of any other school.

10. No children in any area close to a school are to be so assigned that they are transported away from their home area for the full twelve (12) years of school. Out-busing assignments are to be distributed as equally as it is possible and practical.

11. Where practical immediately, and where not, in the future, schools serving primary grades are to be located in every section of the System.

12. Adjustments and specific exceptions to the feeder sequence are to be effected to insure that each school serves its own immediate neighborhood unless there are compelling reasons to do otherwise at a specific school.

13. Monitoring procedures are to be so specified that assignment adjustments will be acted upon when trends of racial changes are noted. These procedures are to be made specific with respect to degrees of change and timing of remedial actions to be taken.

14. School planning is not to be predicated on population growth trends alone. Consideration is to be given to the influence new buildings can be toward simplification of an intergrated pupil assignment plan. Buildings are to be built where they can readily serve both races.

PLAINTIFFS' EXHIBIT NO. 16

Plaintiff's Desegregation Plans A and B

OVERVIEW

* * * *

9. Dunbar's special programs are retained under Plan B. Plan A reassigns all Dunbar students.
10. The Dallas Independent School District should resolve to improve the continuity of programs for students who move from school to school. Oftentimes there is very little follow-up of programs from school to school and gains made by students in programs offered in one school are lost when that student attends another school. With uniformity in feeder patterns improvement in program continuity should be possible.
11. It is recommended that the majority to minority transfer program be redefined and retained. Special efforts should be made to encourage white and Mexican-American students to transfer into Plan B's District 8 model cluster. In addition, transfer policies, other than majority to minority, should be devised to meet student needs consistent with the goal of desegregation.
12. The Dallas Independent School District should re-evaluate, with the goal of expanding and improv-

ing, inservice training programs for new and repeat faculty and staff. Special programs dealing with human relations, cross-cultural understanding, and improving communication skills should be formulated. Such programs are consistent with the Dallas Independent School District's obligation to eradicate "Institutional Racism" from its educational program. Similar efforts should be devised for parents and students to improve harmony and understanding between different cultures and races.

13. The Dallas Independent School District should examine the possibility of requiring faculty and staff to reside in the Dallas Independent School District and to have their children attend school in the Dallas Independent School District.
14. All new magnet schools, including career centers, should be constructed in the inner-city area to encourage the inward flow of students, particularly white students. The schools should seek the assistance of local businesses and citizens in order to acquire appropriate construction sites. Student enrollment in such facilities should approximate the ethnic enrollment of the Dallas Independent School District as a whole. Exceptions would include the elementary magnets created under Plan B.
15. The Dallas Independent School District's efforts at recruitment and hiring of minority faculty and staff has not kept pace with the growth of minority enroll-

ment. More minority faculty and staff should be recruited and employed.

16. Every effort should be made to enhance the involvement of parents and students in the operation of the schools. Visits and open houses should be scheduled to acquaint parents and students with the schools their children will attend under either Plan A or Plan B.

17. Improved means of accountability should be established in order to insure that Dallas Independent School District operations are consistent with any future court order and with the goal of a quality education for each student enrolled in public school. Such means could include: 1) enhancement in the authority and prestige of the Tri-Ethnic Committee including expanded powers, staff and mini-committees organized on the district and school level; 2) the selection of an ombudsman, representing the public, with staff and access to school information and personnel at all levels; 3) the establishment of a student and parent grievance procedure available for use to complain of school procedure and personnel. Although stated last, the student and parent grievance procedure is a most important element of any system of accountability.

* * * *

ELEMENTARY SCHOOLS — PLAN A

1. Elementary grades are K-6 district-wide.
2. Plan A divides the Dallas Independent School District into the following seven (7) attendance zone districts:

A1 Southwest Oak Cliff	A5 Northwest Dallas
A2 Southeast Dallas	A6 North Oak Cliff
A3 Pleasant Grove	A7 North-Dallas-Cedarcrest
A4 East Dallas	
3. The map shows that six (6) of these zones are contiguous. The North Dallas-Cedarcrest district is the only noncontiguous zone.
4. The racial make-up of each elementary district follows:

District	Total Pop.	A	%A	B	%B	MA	%MA	O	%O
A1	8282	3881	46.9	3348	40.4	998	12.1	55	.6
A2	10700	5075	47.4	5061	47.3	541	5.1	23	.2
A3	8821	3977	45.1	4199	47.6	620	7.0	25	.3
A4	11112	4785	43.1	5428	48.8	818	7.4	81	.7
A5	12158	4329	35.6	5627	46.3	2019	16.6	183	1.5
A6	12093	3348	27.7	4787	39.6	3800	31.4	158	1.3
A7	18174	6542	36	8514	46.9	2984	16.3	154	.8
Totals	81340	31937	39.3	36964	45.4	11760	14.5	657	.8

5. Each child attends elementary school within one and only one of these seven (7) districts. No child attends more than three (3) elementary schools from first through sixth grade.

6. Three (3) elementary schools are closed-Austin, Douglas and Juarez. Several elementary attendance zones are split, and several elementary schools house only kindergarten students. It is recommended that a study be conducted in order to determine the need to construct a new elementary school in West Dallas.

7. All students remain in their neighborhood school for kindergarten.

8. Thirteen (13) elementary schools were considered desegregated and were left alone. They are:

238

School	A	%A	B	%B	MA	%MA	O	%O	Total
Blair	319	39.4	395	48.8	94	11.6	2		810
Bowie	140	27.3	136	26.6	213	41.6	23		512
Crockett	301	39.8	36	4.8	395	52.25	23	3.0	755
Kleberg	233	66.6	90	25.7	26	7.4	1	.3	350
Longfellow	68	27.9	167	68.4	6	2.5	3	1.2	244
Mt. Auburn	225	37.3	192	31.8	187	3	7	1.1	611
Peeler	125	30	29	7	247	59	18	4.3	419
Silberstein	283	67.4	123	29.3	13	3.1	0	0	419
Stevens Park	256	50	115	22.5	120	23.5	20	3.9	511
Terry	281	38.2	386	52.5	66	9.0	2	.3	735
Turner	339	58.9	231	40.1	2	.3	4	.7	576
Weiss	265	52.9	151	30.1	84	16.8	1	.2	501
Williams	107	47.4	83	36.7	32	14.2	4	1.8	226

SENIOR HIGH SCHOOLS — GRADES 10-12 DISTRICT-WIDE

1. Under Plan B the Dallas Independent School District is divided into fourteen (14) high school attendance zone areas.
2. The map shows nine of these districts are contiguous.
3. The racial make-up of each high school follows:

239

School	A	%A	B	%B	MA	%MA	Total Students	Capacity
Bryan Adams	1699	51.3	1487	44.9	102	3.1	3311	3030
Adamson	578	47	173	14.1	446	36.3	1229	1300
Carter	955	60.2	467	29.5	150	9.5	1585	2000
Kimball	871	62.9	415	30	86	6.2	1384	2100
Lincoln	1266	59.4	804	37.7	36	1.7	2132	2100
North Dallas	307	29.9	275	26.8	421	41	1026	1100
Pinkston	1416	57.3	904	36.6	118	4.8	2473	3500
Roosevelt	1524	54.6	1190	42.6	64	2.3	2791	2500
Samuel	1775	54.9	1298	40.1	152	4.7	3233	3000
S. Oak Cliff	60	2.2	2677	96.3	42	1.5	2781	2600
Spruce	2024	66.9	908	30	88	2.9	3024	3000
Sunset	970	60.4	74	4.6	542	33.7	1606	1800
White	1292	54	779	32.6	298	12.5	2391	2600
Woodrow	612	55.1	312	28.1	173	15.6	1110	1440

4. Distance from the majority white areas, capacity of schools, DISD enrollment patterns and generally good physical facilities were factors resulting in South Oak Cliff retaining its present student assignment pattern.
5. In the thirteen (13) remaining high schools the Anglo percentages range from 29.9 to 66.9 so that each school has a white majority or plurality with the exception of North Dallas; Black percentages range from 4.6 to 44.9; Mexican-American percentages range from 1.7 to 15.6, except for Sunset which is 33.7, Adamson 36.3 and North Dallas 41%.
6. Each student attends only one (1) high school.
7. Skyline has no attendance zone and is open district wide for its special programs.
8. No high schools are closed but some are put to different use:

<u>School</u>	<u>Use</u>
Crozier	Magnet school for elementary B-5 District
Hillcrest	Magnet school for elementary B-4 District
Thomas Jefferson	Magnet school for elementary B-3 District
Seagoville	Use as junior high

* * * *

JUNIOR HIGH SCHOOLS—GRADES 7-9 DISTRICT-WIDE

1. Under Plan B the Dallas Independent School District is divided into twenty-three (23) junior high school attendance zone areas.
2. The map shows that nine of these districts are contiguous.
3. The racial make-up of each junior high is as follows:

School	A	%A	B	%B	MA	%MA	0	%0	Total	Capacity
Anderson	1057	50.6	937	44.9	88	4.2	5	.2	2087	2507
Atwell	871	62.9	415	30	86	6.2	12	.9	1384	1700
Browne	995	60.2	467	29.5	150	9.5	13	.8	1585	1700
Comstock	704	46.9	611	40.7	185	12.3	1	.1	1501	1700
Cary	664	49.6	516	38.6	133	9.9	25	1.9	1338	1600
Edison	93	11.2	110	13.2	626	75.2	4	.5	833	1000
Franklin	428	51.2	363	43.4	41	4.9	4	.5	836	1400
Florence	892	44.6	1043	52.2	60	3	3	.2	1998	1700
Gaston	816	48	763	44.9	108	6.4	12	.7	1699	1700
Greiner	548	45.3	151	12.5	476	39.3	35	2.9	1210	1300
Hill	489	50.4	439	45.3	36	3.7	6	.6	960	1400
Hood	1348	49.5	1276	46.9	70	2.6	29	1.1	2723	2500
Long	620	46.6	422	31.7	276	20.6	15	1.1	1333	1400
Madison	1344	52	1152	44.6	67	2.6	20	.8	2583	2100
Marsh	770	49.6	709	45.7	55	3.5	17	1.1	1551	1700
Rusk	580	40.3	380	26.4	456	31.7	24	1.7	1440	1300
Seagoville	556	49.5	540	48.1	25	2.2	2	.1	1123	1200
Sequoyah	729	49.9	675	46.2	55	3.8	2	.1	1461	1600
Spence	289	21.8	369	27.8	643	48.5	24	1.8	1325	1300
Stockard	928	61.9	74	4.9	474	31.6	24	1.6	1500	1500
Storey	56	2.5	2094	94.8	57	2.6	2	.1	2209	2500
Walker	650	50.9	566	44.3	54	4.2	7	.5	1277	2000
Zumwalt	4	.3	1533	99.1	10	.6	0	0	1547	?
Totals	15391		15605		4231		286		35513	

- Distance from majority white areas, capacity of schools, enrollment patterns in the DISD and generally good physical facilities were factors resulting in Storey and Zumwalt retaining their present student assignment patterns.
- In the remaining twenty-one (21) junior high schools the Anglo percentage range from 11.2 to 62.9; Black percentages range from 4.9 to 52.2%; Mexican-American percentage range from 2.2 to 48.5 with the exception of Edison which is 75.2%.
- Each student attends only one (1) junior high school.
- No junior high school is closed but some are put to different use.

part Jr. hi
 Edison part Magnet school for B-2 elementary district
 Holmes Magnet school for B-6 elementary district
 Hulcy Magnet school for B-1 elementary district
 Rylie Magnet school for B-7 elementary district

* * * *

ELEMENTARY SCHOOLS—GRADES K-6 DISTRICT-WIDE

- Plan B divides the Dallas Independent School District into the following eight (8) attendance zone districts:

District	Description	District	Description
B-1	Southwest Oak Cliff	B-5	East Dallas
B-2	North Oak Cliff	B-6	Pleasant Grove
B-3	Northwest Dallas	B-7	Southeast Dallas
B-4	North Dallas-Cedarcrest	B-8	South Oak Cliff

- The map shows seven (7) of the elementary districts are contiguous and reasonably compact. The North Dallas-Cedarcrest district is the only non-contiguous district.
- The racial make-up of each elementary district follows:

District	Total		A	%A	B	%B	MA	%MA	O	%O
	District	Pop.								
1		7272	3453	47.5	2697	37.1	1051	14.5	71	1
2		8223	2928	35.6	755	9.2	4389	53.4	131*	1.6
3		12381	5120	41.4	5147	41.5	1949	15.7	165	1.3
4		8492	3686	43.4	3696	43.5	1049	12.4	61	.7
5		14393	5463	38	6350	44.1	2383	16.6	197	1.4
6		8609	3986	46.3	4169	48.4	418	4.9	36	.4
7		9743	4015	41.2	4956	50.9	758	7.8	14	.1
8		8493	113	1.3	8188	96.4	187	2.2	5	.05
Totals		77006	28764	37.1	35958	46.3	12184	15.7	700	.9

Figures used are dated "October 15, 1975 DISD Distribution Sheet".

- Distance from the majority white areas, capacity of schools, DISD enrollment patterns and generally better physical facilities were factors resulting in District B-8 retaining its present assignment patterns. This district consists of eight (8) elementary attendance zones containing twelve (12) elementary schools.
- In the remaining seven (7) districts the Anglo percentages range from 36 to 48; Black percentages range from 9 to 51; and the Mexican-American percentages range from 5 to 17, except for the North Oak Cliff District which is 53% Mexican-American.
- Each child attends elementary school within one (1) and only one (1) of the eight (8) districts. No child attends more than two (2) elementary schools from first through sixth grade.
- Three (3) elementary schools are closed-Austin, Douglas and Juarez. Ray and Central are used only for kindergarten students. The Macon attendance zone is split by district 6 and 7.
- All kindergarten students remain in their neighborhood schools.
- Thirty-nine (39) elementary schools are desegregated (no race comprises more than 70%) and are left alone. (see pages 248-249 of this appendix).

10. Each elementary school that had a predominately minority enrollment prior to the effective date of this proposal shall have special programs (as contained in magnet schools) to enhance the attractiveness of these schools as educational facilities. Prior to the effective date of this proposal these schools shall receive a thorough survey. Renovations shall take place, if necessary. Curriculums should be revised and enhanced.

11. 19,832 elementary students are transported for desegregation purposes. See table below.

District	District Total	A	B	MA	0
B-1	900	400	390	104	6
B-2	0	0	0	0	0
B-3	4248	1924	2057	225	42
B-4	3480	1582	1563	305	30
B-5	4686	2041	2175	399	71
B-6	3486	1561	1732	168	25
B-7	3032	1437	1462	127	6
B-8	0	0	0	0	0
Totals	19832	8945	9379	1328	180

12. Seven (7) districts have magnet schools which draw from only the district they serve. 60% of the enrollment must be Black and/or Mexican-American.

District	Magnet School	Maximum # of Students	Capacity
B-1	Hulcy	1000-1300	2000
B-2	Edison	1000	1500
B-3	Thomas Jefferson	1700	2200
B-4	Hillcrest	1500	2040
B-5	Crozier	1500	1800
B-6	Holmes	1750	2500
B-7	Rylie	750	800

?(possible space in Ervin)

* * *

K-5 ELEMENTARY SCHOOLS CONSIDERED DESEGREGATED (NO RACE IN
EXCESS OF 70%). FIGURES FROM 12/1/75 HINES COUNTY REPORT

School	A	%A	B	%B	MA	%MA	Total
Blair	288	34.3	449	53.5	103	12.3	840
Bowie	124	21.3	172	29.5	262	44.9	583
Buckner	101	12.1	149	66.8	47	21.1	223
Burleson	27	12.8	494	62.6	194	24.6	789
Carpenter	261	62.4	121	29	17	4.1	418
City Park	7	3.1	152	66.4	70	30.6	229
Cochran	256	48.2	155	29.2	117	22	531
Cowart	285	46	3	.5	319	51.5	620
Crockett	256	38.2	52	7.7	338	50.4	671
Davis	200	35.3	279	49.3	83	14.7	566
Donald	270	53.1	0	0	230	45.3	508
Foster	307	56.3	6	1.1	200	36.7	545
Hall	404	54.1	143	19.1	196	26.2	747
Henderson	294	53.9	116	21.3	125	22.9	546
Hogg	95	34.5	18	6.5	153	55.6	275
Hooe	320	59.4	2	.4	214	39.7	539
Houston	101	18.4	64	11.6	378	68.7	550
Jones	294	50.8	16	2.8	264	45.6	579
Kleberg	240	68.9	88	25.3	20	5.8	348
Knight	212	34.4	8	1.3	383	62.1	617

(Continued below)

School	A	%A	B	%B	MA	%MA	Total
Lee, R.	148	43.1	0	0	189	55.1	343
Lipscomb	298	50	22	3.7	252	42.3	596
Longfellow	68	31.3	143	65.9	7	3.2	217
Maple Lawn	126	24.4	112	21.7	252	48.7	517
Milam	46	33.3	20	14.5	67	48.6	138
Mt. Auburn	187	34.7	179	33.2	170	31.5	539
Peabody	170	41.7	1	.2	226	55.4	408
Peeler	115	26.9	26	6.1	273	63.9	427
Reagan	160	35.6	3	.7	271	60.4	449
Rosemont	371	60.6	45	7.4	184	30.1	612
Silberstein	243	58.6	146	35.2	24	5.8	415
Stevens Park	245	51.7	82	17.3	133	28.1	474
Terry	251	35.9	387	55.4	59	8.4	699
Turner	231	44.8	272	52.7	2	.4	516
Webster	433	57.8	277	37	38	5.1	749
Weiss	232	53.6	141	32.6	60	13.9	433
Williams	109	44.9	95	39.1	32	13.2	243
Winnetka	196	44.2	8	1.8	230	51.9	443
Juarez	6		32		107		147
Douglas	13		90		143		246
Lanier	56		66		373		503
	75	8.4	188	22.1	623	69.5	896
		*	*	*	Total		19,838

COURT'S EXHIBIT NO. 9

Dallas Alliance
Fidelity Union Tower
1507 Pacific Avenue
Dallas, Texas 75201

March 3, 1976

Honorable W. M. Taylor, Jr.
Chief United States District Judge
1100 Commerce Street
Dallas, Texas 75242

Dear Judge Taylor:

After further study of our plan and more consultation with DISD staff, the Dallas Alliance Education Task Force met on March 2, 1976 and adopted modifications to our plan. The revised plan is attached for your consideration, with the changes underlined.

Our estimate of the annual DISD operating cost increases, excluding transportation costs, is \$5,000,000. This estimate does include start-up costs and should decrease after the first year. Our estimate of capital expenditure is \$16,500,000. Our understanding is that the present bond issuance capability of DISD without tax increase, could accommodate this capital expenditure.

DALLAS ALLIANCE EDUCATION TASK FORCE

/s/ JACK LOWE, SR.

Jack Lowe, Sr., Chairman
Atts . . .

(Filed: Mar. 3, 1976)

HALL'S EXHIBIT NO. 5

A POTENTIAL PLAN FOR COMPLIANCE WITH
RULINGS FOR OPERATING SCHOOLS IN
DALLAS, TEXAS

* * * * *

Schools Now Meeting Criteria

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
1. Arcadia Park K-6	273	74.4	2	.5	92	25.1	25.6	367	400
2. Blair, W. A. K-6	281	35.3	419	52.5	97	12.2	64.7	797	800
3. Bowie, James K-6	154	28.7	146	27.3	236	44.0	71.3	536	800
4. Burnet, David G. K-7	707	73.9	36	3.8	214	22.3	26.1	957	1,350
5. Carpenter, J. W. K-6	274	68.5	110	27.5	16	4.0	31.5	400	800

(Continued on next page)

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
6. Central 5-6	228	84.8	23	8.5	18	6.7	15.2	269	300
7. Cochran, Nancy J. K-7	256	47.4	157	29.1	127	23.5	52.6	540	800
8. Cowart, Leila P. K-7	331	49.7	2	.3	333	50.	50.3	666	800
9. Crockett, David K-7	312	42.5	52	7.1	370	50.4	57.5	734	400 (P-360)
10. Davis, Jefferson K-6	210	37.5	274	48.9	76	13.6	62.5	560	800
11. Donald, L. O. K-7	331	57.3	-0-	-0-	247	42.7	42.7	578	800
12. Field, Tom W. K-7	154	75.1	10	4.9	41	20.0	24.9	205	500
13. Foster, Stephen K-7	379	61.7	8	1.3	227	37.0	38.3	614	800
14. Hall, Lenore K. K-7	493	58.6	141	16.8	207	24.6	41.4	841	800
15. Henderson, Margaret K-6	320	59.6	115	21.4	102	19.0	40.4	537	800
16. Hogg, James S. K-7	114	40.1	23	8.1	147	51.8	59.9	284	400
17. Hooe, Lida K-7	378	60.5	4	.6	243	38.9	39.5	625	500 (P-120)
18. Ireland, John K-7	403	71.3	108	19.1	54	9.6	28.7	565	800

252

(Continued below)

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
19. Jones, Anson K-6	285	52.4	15	2.8	241	44.8	47.6	544	400 (P-150)
20. Kleberg K-6	236	69.9	82	24.2	20	5.9	30.1	338	300 (P-120)
21. Knight, Obadiah K-7	250	36.6	7	1.0	426	62.4	63.4	683	650
22. Lipscomb, Wm. K-7	379	56.7	20	3.0	269	40.3	43.3	668	800
23. Maple Lawn K-7	169	29.3	118	20.5	290	50.2	70.7	577	700
24. Milam, Ben K-7	60	36.0	10	6.0	97	58.0	64.0	167	800
25. Mount Auburn K-7	211	34.3	215	35.0	189	30.7	65.7	615	700
26. Peabody, George K-7	226	47.0	-0-	-0-	255	53.3	53.3	481	500
27. Peeler, John F. K-7	145	31.5	27	5.9	287	62.6	68.5	459	400 (P-120)
28. Reagan, John H. K-7	203	39.9	-0-	-0-	306	60.1	60.1	509	400 (P-120)
29. Rosemont K-7	450	64.4	53	7.6	196	28.0	35.6	699	750
30. Seagoville K-4	553	83.6	82	12.3	27	4.1	16.4	662	600 (P-90)
31. Silberstein, A. S. K-7	286	59.5	166	34.5	29	6.0	40.5	481	800

253

(Continued on next page)

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
32. Stemmons, Leslie K-6	601	74.2	81	10.0	128	15.8	25.8	810	800 (P-60)
33. Stevens Park K-7	267	55.2	89	18.4	128	26.4	44.8	484	800
34. Terry, T.G. K-6	252	36.8	375	54.7	58	8.5	63.2	685	800
35. Turner, Adelle K-6	243	47.8	262	51.6	3	.6	52.2	508	800
36. Webster, Daniel K-6	423	59.0	255	35.6	39	5.4	41.0	717	800
37. Weiss, Martin K-6	226	52.3	144	33.3	62	14.4	47.7	432	800
38. Williams, Sudie K-7	113	48.1	90	38.3	32	13.6	51.9	235	800
39. Winnetka K-7	231	46.1	11	2.2	259	51.7	53.9	501	400 (P-120)
40. Mark Twain K-6	90	18.5	385	79.4	10	2.1	81.5	485	800
41. Lee, Robt. E. K-7	252	52.9	-0-	-0-	224	47.1	47.1	476	800

254

Junior High Schools

42. Atwell, Wm. H. 7-9	362	34.8	645	61.8	36	3.4	65.2	1,043	1,700
43. Browne, T.W. 7-9	904	47.4	862	45.2	141	7.4	52.6	1,907	1,700 (P-240)
44. Cary, E.H. 8-9	739	43.7	636	37.6	316	18.7	56.3	1,691	1,500

(Continued below)

School	Anglo		Black		M-A		Minority	Total	Bldg. Cap.
	No.	%	No.	%	No.	%			
45. Comstock, E.B. 7-9	699	53.6	420	32.2	185	14.2	46.4	1,304	1,700
46. Greiner, W.E. 7-9	634	52.1	165	13.6	418	34.3	47.9	1,217	1,300
47. Hulcy, D.A. 7-9	248	18.6	1,038	77.7	50	3.7	81.4	1,336	2,500
48. Long, J. L. 8-9	549	52.8	192	18.5	299	28.7	47.2	1,040	1,400
49. Stockard, L. V. 7-9	687	62.9	58	5.3	347	31.8	37.1	1,092	1,400

255

Senior High Schools

50. Carter, David W. 10-12	542	31.4	1,118	64.8	66	3.8	68.6	1,726	2,000
51. Jefferson, T. 10-12	1,118	60.7	375	20.3	350	19.0	39.3	1,843	2,100
52. Kimball, J. F. 10-12	1,212	68.0	421	23.6	150	8.4	32.0	1,783	2,100
53. Seagoville 7-12	827	80.2	157	15.2	47	4.6	19.8	1,031	750 (P-960)
54. Spruce, H. Grady 10-12	1,170	69.6	367	21.8	145	8.6	30.4	1,682	3,000
55. Sunset 10-12	1,115	69.7	110	6.9	375	23.4	30.3	1,600	1,800
56. Wilson, Woodrow 10-12	657	62.3	178	16.9	219	20.8	37.7	1,054	1,500

Junior High Schools are underlined. Schools listed under each are feeder schools into these centers.

William H. Atwell

Marsalis, T. L.
Terry, T. G.
(North of Camp)
Turner, Adelle
Twain, Mark

T. W. Browne

Carpenter, John
Davis, Jeff
Russell, C. P.
(West of Marsalis)
Stemmons, Leslie
Webster, Daniel

Edward H. Cary

Burnet, David G.
Caillet, T. F.
Field, Tom
(South of Royal)
Foster, Stephen C.
Houston, Sam
Knight, Obadiah
Longfellow, Henry W.
Maple Lawn
Polk, K. B.
Walnut Hill
Williams, Sudie

E. B. Comstock

Adams, John Q.
(West of Loop 12)
Blair, W. A.
Burleson, Rufus C.
Dorsey, Julius
Ireland, John
(S. of Lake June)
Lagow, Richard
Macon, B. H.
(S. of Elam)
Moseley, Nancy

J. L. Long

Bayles
Bonham, James B.
Crockett, David
Fannin, James
Lakewood
Lee, Robert E.
Lipscomb, William
Milam, Ben
Mount Auburn
Roberts, D. M.
Sanger, Alex
(W. of St. Francis)
Travis, William B.
Washington, B. T.

W. E. Greiner

Bowie, James
Hogg, James
Hooe, Lida
Henderson, Margaret B.
Peeler, John F.
Reagan, John H.
Rosemont
Stevens Park
Winnetka

D. A. Hulcy

Alexander, Birdie
Lee, Umphrey
Terry, T. G.
(S. of Camp Wisdom)
Thornton, R. L.
Weiss, Martin

L. V. Stockard

Aradia Park
Cochran, Nancy
Coward, Lelia P.
Donald, L. O.
Hall, L. K.
Jones, Anson
Peabody, George

Senior High Schools are underlined. Schools listed under each are feeder schools into these centers.

David W. Carter

Alexander, Birdie
Lee, Umphrey
Marsalis, T. L.
Terry, T. G.
Thornton, Robert L.
Turner, Adelle
Twain, Mark
Weiss, Martin

H. Grady Spruce

Adams, John Q.
(S. of Lake June)
Anderson, William M.
Blair, W. A.
Buckner, R. C.
Burleson, Rufus C.
Dorsey, Julius
Ireland, John
(S. of Lake June)
Lagow, Richard
Macon, B. H.
Moseley, Nancy
Runyon, John
Thompson, H. S.

Thomas Jefferson

Burnet, David G.
 Caillet, F. P.
 Field, Tom
 (S. of Royal)
 Foster, Stephen C.
 Houston, Sam
 Knight, Obadiah
 Longfellow, Henry W.
 Maple Lawn
 Polk, K. B.
 Walnut Hill
 Williams, Sudie L.

Justin F. Kimball

Carpenter, John
 Cochran, Nancy J.
 Davis, Jeff
 Donald, L. O.
 Hall, L. K.
 Russell, C. P.
 (W. of Marsalis)
 Stemmons, Leslie
 Webster, Daniel

Seagoville

Central
 Kleberg
 Seagoville

Comment 1:

Only 8 elementary schools do not fully meet the 30-75 combined minority percent criterion:

1. Arcadia Park, 25.6
2. David G. Burnet, 26.1

Sunset

Arcadia Park
 Bowie, James
 Cowart, Lelia P.
 Henderson, Margaret B.
 Hogg, James
 Hooe, Lida
 Jones, Anson
 Peabody, George
 Peeler, John F.
 Reagan, John H.
 Rosemont
 Stevens Park
 Winnetka

Woodrow Wilson

Bonham, James B.
 Crockett, David
 Fannin, James W.
 Lakewood
 Lee, Robert E.
 Lipscomb, William
 Milam, Ben
 Mount Auburn
 Roberts, Oran M.

3. Central, 15.2
4. Tom W. Field, 24.9
5. John Ireland, 28.7
6. Seagoville, 16.4
7. Leslie Stemmons, 25.8
8. Mark Twain, 81.5

Except for Numbers 3 and 6, they are considered as *approximately* meeting criterion. Numbers 3 and 6, Central and Seagoville, are located in the Seagoville area and fall under Criterion 5 as being located too far from other schools to make transportation practical, and they do have pupils from all ethnic groups.

Comment 2:

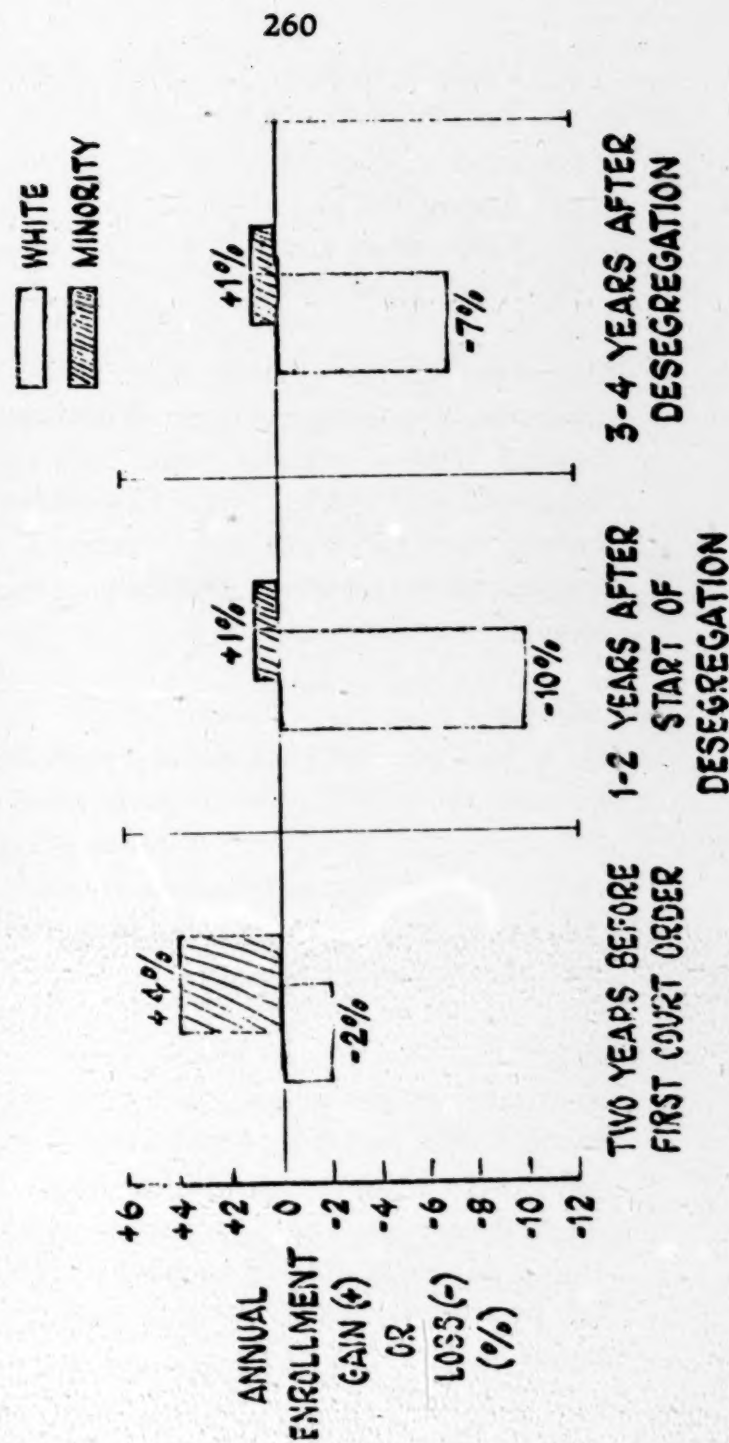
D. A. Hulcy Junior High School, with a combined minority of 81.4% approximately meets the 30-75% criterion. Seagoville (Grades 7-12), with a combined minority of 19.8, has the same problem as Central and Seagoville Elementary Schools, and the same comment applies.

Comment 3:

A number of the schools, 20 with less than 10% black, 5 with less than 4% Mexican-American, do have no or little representation from one of the minority groups. There appears to be no denial of rights, however. Reenforcement of this principle can be given with a majority-to-minority transfer policy.

CURRY EXHIBIT NO. 6

CHANGE IN ENROLLMENT BEFORE AND AFTER
COURT-ORDERED MANDATORY DESEGREGATION: 16 TARGET SCHOOLS



261

TARGET SCHOOL DISTRICTS

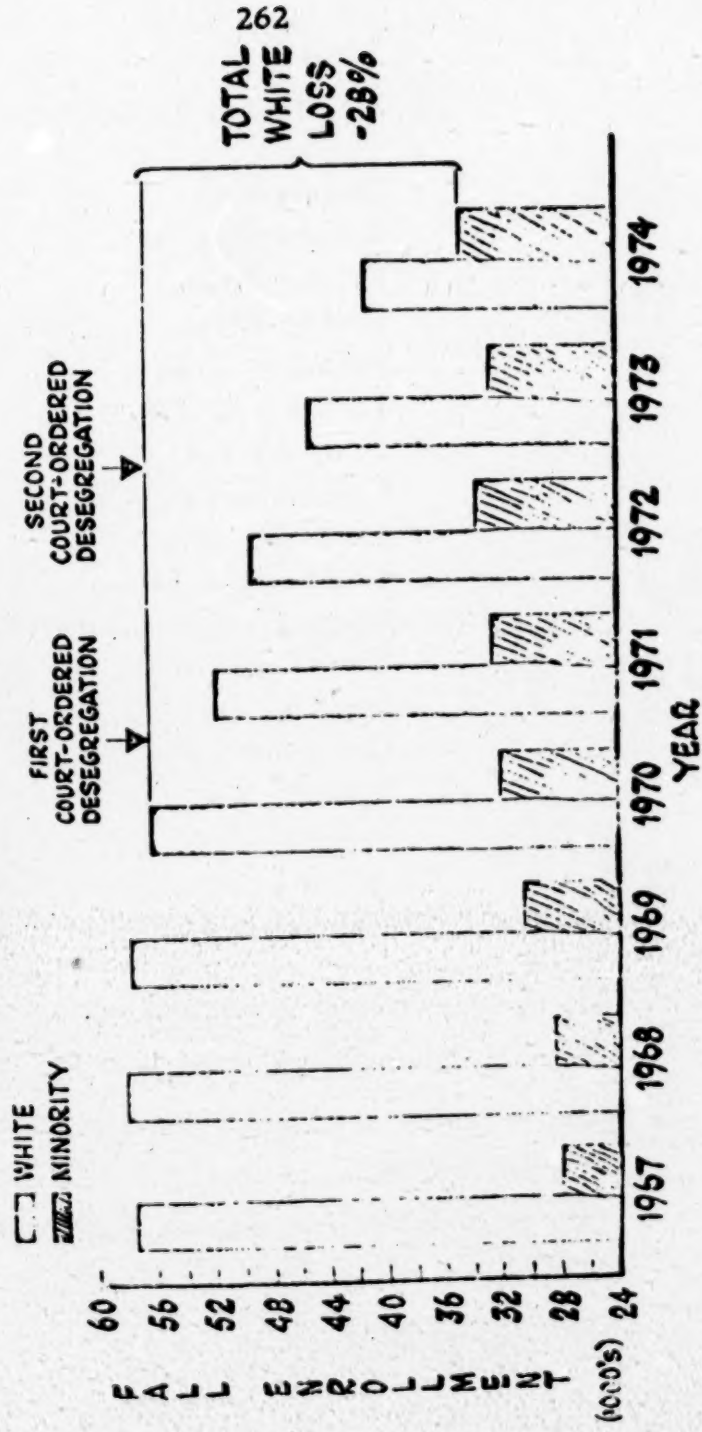
Denver, Colo.
Indianapolis, Ind.
Pontiac, Mich.
Boston, Mass.
Pasadena, Calif.
Fort Worth, Tex.
Houston, Tex.
Oklahoma City, Ok.
Nashville, Tenn.
Chatanooga, Tenn.
Prince Georges County, Md.
Little Rock, Ark.
Norfolk, Va.
Greensboro, N.C.
Raleigh, N.C.
Jackson, Miss.

All have the following characteristics:

- (1) Court-ordered mandatory busing
- (2) Enrollment over 20,000 as of Fall, 1968
- (3) Minority proportion between 20-50% prior to busing
- (4) Availability of developed suburbs outside district

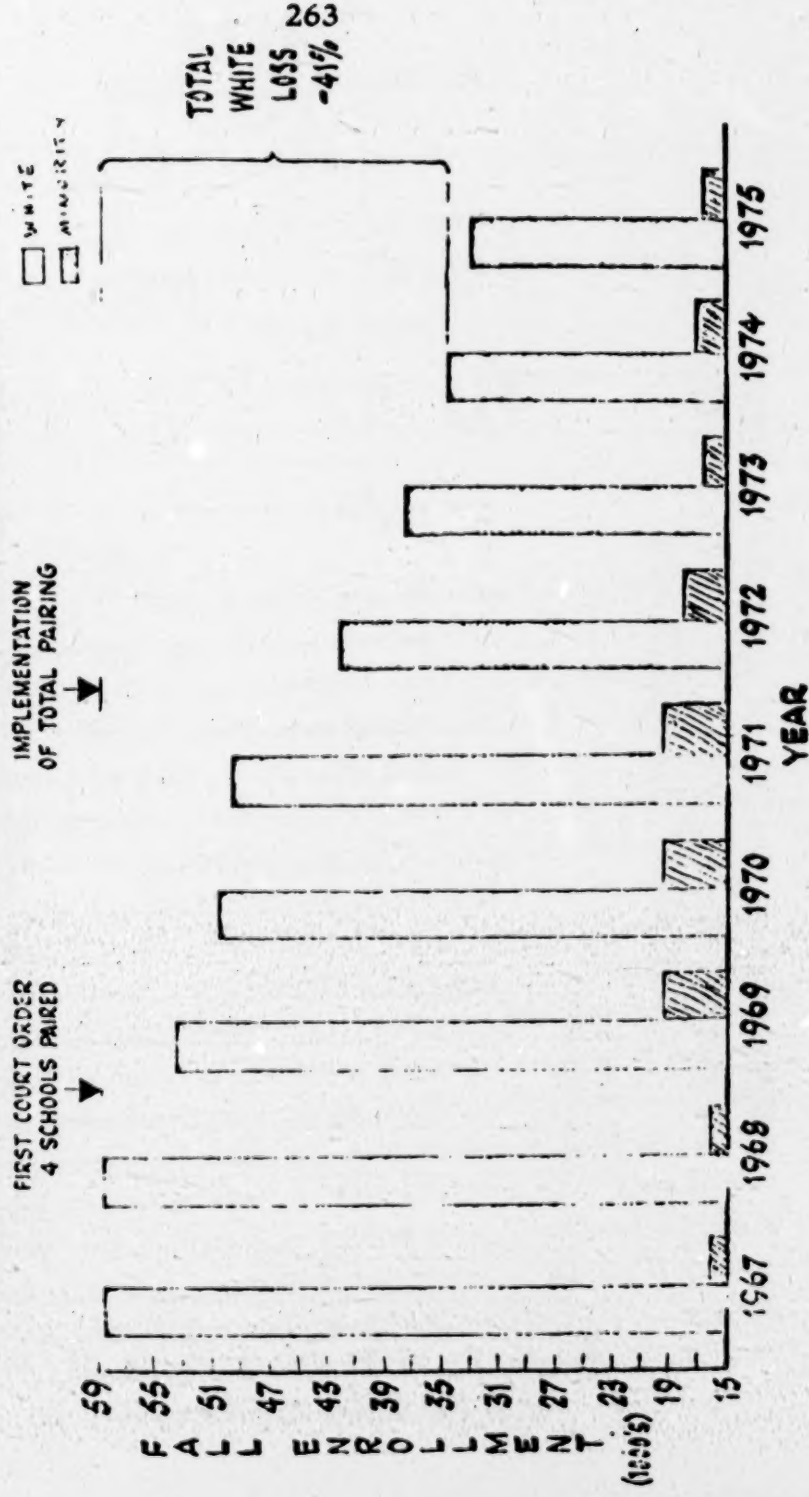
CURRY EXHIBIT NO. 7

ENROLLMENT OF WHITE AND MINORITY STUDENTS IN FORT WORTH BEFORE AND AFTER COURT-ORDERED MANDATORY DESEGREGATION

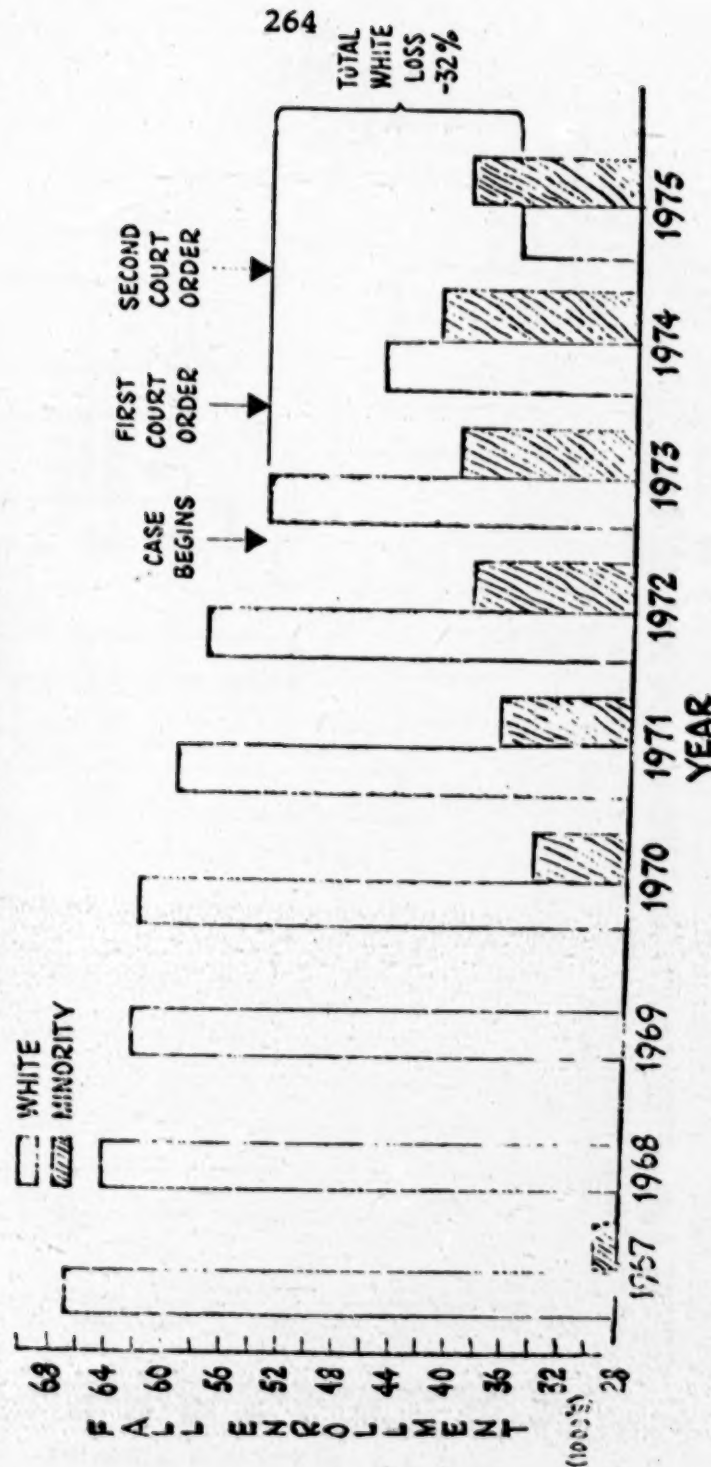


CURRY EXHIBIT NO. 8

ENROLLMENT OF WHITE AND MINORITY STUDENTS IN OKLAHOMA CITY BEFORE AND AFTER COURT-ORDERED MANDATORY DESEGREGATION



CURRY EXHIBIT NO. 9
 ENROLLMENT OF WHITE AND MINORITY STUDENTS
 IN BOSTON BEFORE AND AFTER COURT-ORDERED
 MANDATORY DESEGREGATION



265

BRINEGAR'S EXHIBIT NO. 6

EAST DALLAS DEMONSTRATION

a joint program of the
 citizens & the city government

city of dallas

department of housing & urban rehabilitation/
 department of urban planning

SUMMARY

The East Dallas Community, like the other innercity communities, has been experiencing a loss of middle and upper-income families, particularly the Anglos since 1960. School enrollment among Anglos has declined by 80% within the last six years. Unlike the Anglo students, Spanish surname and black student enrollment in elementary schools in East Dallas Community has increased by 102% and 75% respectively within the same period of time. This statistical fact proves the point of minority in-migration in the East Dallas Community. East Dallas Community has a higher percent of elderly population, mortality rate, illegitimate birth rate, single, separated, divorce, widow, families with female heads, families and unrelated individual below poverty level than the City. East Dallas Community also has higher percentage of housing units lacking plumbing facilities, units built before 1939, elderly homeowners, and vacancy rate than the City. East Dallas Community has experienced a greater increase in part I crime than the City.

TABLE 6

ENROLLMENT IN EAST DALLAS SCHOOLS: 1968-1975

School Year	Anglo	Spanish Surname	Black	Indian	Oriental	All Races
<u>Elementary</u>						
68-69	3,113	1,064	827	32	5	5,041
74-75	1,308	2,155	1,450	34	7	4,954
Change in No.	- 1,805	1,091	623	2	2	- 87
in %	- 58.0	102.5	75.3	6.2	40.0	- 1.7
<u>Jr. High</u>						
68-69	1,232	444	510	7	5	2,198
74-75	951	688	416	11	6	2,072
Change in No.	- 281	244	- 94	4	1	- 126
in %	- 22.8	55.0	-18.4	57.1	20.0	- 5.7
<u>Sr. High</u>						
68-69	1,546	79	23	2	4	1,654
74-75	702	157	191	5	4	1,059

(Continued below)

School Year	Anglo	Spanish Surname	Black	Indian	Oriental	All Races
Change in No.	- 844	78	168	3	0	- 595
in %	- 54.6	98.7	730.4	150.0	0.0	- 36.0
<u>Total</u>						
68-69	5,891	1,587	1,360	41	14	8,893
74-75	2,961	3,000	2,057	50	17	8,085
Change in No.	-2,930	1,413	697	9	3	- 808
in %	- 49.7	89.0	51.2	22.0	21.4	- 9.1

Note: See Map 3 for the school boundaries, which cover areas outside East Dallas. Junior and Senior enrollment has been affected by busing since 1971.

Source: Dallas Independent School District

PROOF OF SERVICE

We, Warren Whitham and Mark Martin, Attorneys for Petitioners Estes, et al., in No. 78-253, and members of the Bar of the Supreme Court of the United States, hereby certify that on the ____ day of May, 1979, we served three copies of the foregoing Appendix upon the following Counsel for Petitioners and Respondents:

Mr. Edward B. Cloutman, III
8204 Elmbrook Drive, Suite 200
P. O. Box 47972
Dallas, Texas 75247

Mr. Thomas E. Ashton, III
Dallas Legal Services
Foundation, Inc.
810 Main Street, Room 320
Dallas, Texas 75202

Ms. Vilma S. Martinez
Mexican-American Legal Defense
and Educational Fund
28 Geary Street
San Francisco, California 94108

Mr. E. Brice Cunningham
2606 Forest Avenue, Suite 202
Dallas, Texas 75215

Mr. Nathaniel R. Jones
1790 Broadway, 10th Floor
New York, New York 10019

Mr. Robert H. Mow, Jr.
Mr. Robert L. Blumenthal
3000 One Main Place
Dallas, Texas 75250

Mr. James A. Donohoe
1700 Republic National Bank
Building
Dallas, Texas 75201

Mr. John Bryant
8035 East R. L. Thornton
Dallas, Texas 75228

Mr. Martin Frost
Oak Cliff Bank Tower, Suite 1319
Dallas, Texas 75208

Mr. Lee Holt, City Attorney
City Hall
Dallas, Texas 75201

Mr. James G. Vetter, Jr.
555 Griffin Square Building
Suite 920
Dallas, Texas 75202

and to the following Respondent pro se:

Mr. James T. Maxwell
4440 Sigma Road, Suite 112
Dallas, Texas 75240

and to the following Counsel for Amicus Curiae:

Mr. H. Ron White
1907 Elm Street, Suite 2100
Dallas, Texas 75201

by mailing same to such Counsel and Respondent pro se at their respective addresses and depositing the same in a United States mail box in an envelope properly addressed to such addresses with first class postage prepaid.

We further certify that all parties required to be served have been served.

Warren Whitham

Mark Martin

Attorneys for Petitioners
Estes, et al. in No. 78-253